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May 1, 2012

VIA OVERNIGHT MAIL, HAND DELIVERY AND E-MAIL

California High Speed Rail Authority

Board of Directors
770 L Street, Suite 800
Sacramento, CA 95814

Attn: Jeff Abercrombie, Area Program Manager Central Valley
770 L Street, Suite 800
Sacramento, CA 95814
E-mail: merced_fresno@hsr.ca.gov

Re: Comments Concerning Final EIR/EIS for the Merced to Fresno Segment
of the High Speed Rail Project

Dear Members of the CHSRA Board and Mr. Abercrombie:

We are writing on behalf of Church & Dwight Co., Inc. ("Church & Dwight") to present comments concerning (1) revisions to the environmental impact analysis contained in the Final Environmental Impact Report/Final Environmental Impact Statement ("FEIR/S") and (2) numerous deficiencies in responses to the comments on the draft analysis offered by agencies and the public.¹ Based upon our review of the FEIR/S, we urge the California High Speed Rail Authority ("CHSRA" or "Authority") to substantially revise and recirculate for public review the FEIR/S before taking any actions on the Merced to Fresno Segment ("Segment") of the High Speed Rail Project ("Project").

On October 13, 2011, this firm submitted comments on behalf of Church & Dwight concerning the Draft Environmental Impact Report/Draft Environmental Impact Statement ("DEIR/S") for the above-referenced Segment. We now submit the following comments on select Authority responses to Church & Dwight's comments as well as on revisions to the

¹ Please note that while many deficiencies with the responses to public comments are described herein, this letter does not provide a comprehensive discussion of all deficiencies we have observed in the responses. The Authority has simply provided too little time to both conduct a thorough review of all responses to comments and prepare an analysis that addresses each deficiency.

analysis presented in the FEIR/S.² As explained further below, the FEIR/S does not comply with CEQA, and therefore, the Board should not certify the FEIR/S or approve the Segment without first giving additional consideration to the issues raised in these and other public comments, correcting the numerous deficiencies, recirculating a revised document and otherwise completing environmental review in accordance with the California Environmental Quality Act ("CEQA").³

At the outset, we object to the Authority's decision to provide only a minimal amount of time for the public and other agencies to review the FEIR/S prior to the scheduled certification meeting on May 2, 2012.⁴ Allowing the public and interested agencies time to review the substantially revised analysis and the responses to extensive public and agency comments would foster more meaningful public participation and sound decision-making. Instead, the Authority has provided just over one week to review thousands of pages of revised analysis and hundreds of responses to comments. At a minimum, the Authority should postpone its consideration of this FEIR/S for certification so that the public and interested agencies have sufficient time to review the revised analysis and responses and provide additional feedback.

I. Specific Objections to the Authority's Responses to Church & Dwight's Comments

During the limited time period within which we have had the opportunity to review the FEIR/S, we have observed numerous misstatements, omissions, inaccuracies and other problems with the Standard Responses.⁵ The following table summarizes some of our primary objections to responses to Church & Dwight's comments.⁶

Response	Primary Objection(s)
Responses to Church & Dwight's Comments	
717-1 – Tiering and Incorporation by Reference	The master responses mentioned in this response do not address all of the significant points raised in these comments. For example, the master responses do not correct the following DEIR/S deficiencies:

² We have reviewed the comment letters concerning the FEIR/S prepared on behalf of the Madera County Farm Bureau and the Merced County Farm Bureau and on behalf of Preserve Our Heritage, agree with those comments and incorporate those comments herein by reference.

³ Public Resources Code ("PRC"), § 21000, et seq.

⁴ See *id.* at § 21092.5(a).

⁵ Deficiencies with the Standard Responses are addressed in the incorporated Farm Bureau letter concerning the FEIR/S; we therefore will not address these deficiencies further herein.

⁶ In addition to the deficiencies described in the following table, we object to the omission of the attachments to Church & Dwight's DEIR comment letter from the Responses to Comments section of the FEIR/S. These attachments were included in Church & Dwight's DEIS comment letter (Letter 795, FEIR/S, pp. 20-377 – 20-392, regarding the Federal Railroad Administration's compliance with the National Environmental Policy Act). However, for clarity and accuracy, these attachments should also have been included with the DEIR comment letter.

Response	Primary Objection(s)
	<ul style="list-style-type: none">• Failure to describe analysis in two programmatic EIR/EIS documents;• Failure to acknowledge the significant and unavoidable impacts that would be caused by the statewide system and the Bay Area to Central Valley segment and explain how this Segment would contribute to those impacts; and• Failure to resolve the inconsistent conclusions regarding the preferred alternatives reached in the two programmatic EIR/EIS documents.
717-4 – Secondary Effects Caused by Mitigation Measures	As with the DEIR/S, this response provides only a conclusory statement concerning the impacts that would be caused by mitigation measures. Such unsupported statements responding to significant environmental concerns are inadequate under CEQA.
717-10 – Air Quality Impacts	<p>The response vaguely states that information concerning the amount of ballast material that would be hauled from outside the area is provided in Appendix H to the Air Quality Technical Report. This explanation is deficient for several reasons. First, the explanation does not correct the DEIR/S failure to summarize the relevant information. Second, the explanation does not sufficiently direct the reader to where the pertinent information can be found. Third, contrary to the response, Appendix H does not include all of the requested information. In addition, other sections of the Air Quality Technical Report reveal that the emissions caused by hauling ballast and sub-ballast were grossly underreported.⁷ The response does not explain how Appendix H, which purports to address the emissions caused by ballast hauling, relates to the rest of the air quality analysis in the technical report and to the analysis in the FEIR/S.</p> <p>The response similarly claims, without any supporting evidence or citations, that “[a]ctivities associated with water trucks for watering the construction site have been included in the</p>

⁷ See Air Quality Technical Report, Table A:18 [air emissions calculated for hauling ballast “from SJVAB border” – while the table acknowledges that “Quarries may be located beyond the SJVAB” it does not analyze the air quality impacts of hauling ballast from any areas outside the SJVAB]. Compare *id.* at Table A:18 [“Rail will transport material from the SJVAB border to the project midpoint; haul trucks will transport material from the mid-point along the alignment”] with *id.* at B.1-57 [Table entitled “SJVAB Material Hauling by Truck: Miles Traveled” showing that no vehicle miles travelled were assumed for hauling ballast and sub-ballast material].

Response	Primary Objection(s)
	construction emission calculations.” But this claim is not supported by the record. ⁸
717-9 – Unenforceable Traffic Mitigation Measures	The response to this comment completely ignores the issue of mitigation measure enforceability.
717-13 – Water Supply and Water Quality Impacts	The response claims that the FEIR/S analysis concerning cumulative impacts considered the impacts of neighboring HST segments on groundwater pumping and aquifer recharge, but this is not accurate. The FEIR/S is silent with respect to neighboring segments in this impact category, and makes only passing reference to other segments when discussing other cumulative impact categories. The FEIR/S’s discussion of cumulative impacts does reference the impacts of the HST system as a whole, but, contrary to the unsupported assertions in the response, it does not provide a more refined discussion of the regional cumulative impacts caused by neighboring segments.
717-14 – Impacts to Biological Resources	The FEIR/S fails to correct a fatal flaw in the analysis, the lack of sufficient baseline information concerning biological resources with which to assess the Segment’s direct, indirect and cumulative impacts.
717-15 – Mitigation for Biological Resources Impacts	The response fails to address recent developments that have made Bio-MM#49, and all other mitigation measures that depend on mitigation banking, potentially infeasible, at least in part. On March 15, 2012, the CDFG posted the following announcement on its website: “Conservation and Mitigation Banking is an important tool for achieving DFG conservation goals, and DFG is actively seeking sustainable long-term funding for this program. [¶] Until such funding is secured, DFG has suspended program activities. It is hoped that this pause in activities will be short lived.” The suspension of CDFG’s mitigation banking program renders all measures that depend on this mechanism less effective, undermining related conclusions that impacts will be reduced to less-than-significant

⁸ See *ibid.* [Tables A:18 and B.1-57 do not mention water among the materials that will be hauled during Segment construction]. The appendices to the Air Quality Technical Report reveal that the transport of water was not considered in the emissions calculations, and that only the application of water to control dust was considered when calculating reductions in other emissions. Moreover, some tables in the appendices state that surfaces would be watered twice daily while other tables state that surfaces would be water three times daily, further compromising the inadequate analysis and deficient responses to comments concerning this issue.

Response	Primary Objection(s)
	<p>levels.</p> <p>The response also ignores comments concerning the lack of clear performance standards, such as “no net loss” of biological function and value, for compensatory mitigation.</p>
717-19 – Cumulative Impacts	<p>“Under CEQA, the agency must consider the cumulative environmental effects of its action before a project gains irreversible momentum.”⁹</p> <p>This response, like the DEIR/S, fails to address the Segment’s cumulative impacts, when combined with the impacts of neighboring HSR segments and all other reasonably foreseeable probable future projects. This response claims that the impacts of neighboring segments were considered in the cumulative impacts analysis, but this conclusory assertion is not supported by the FEIR/S chapter concerning cumulative impacts or any other evidence in the record.¹⁰</p> <p>The FEIR/S acknowledges that the Merced to Fresno Segment will connect to three other segments of the HST system, but fails to analyze the impacts of this Segment, when combined with those contributing impacts of the other three segments.¹¹ Further, the FEIR/S fails to describe the phasing of construction activities among the various HST system segments.¹² Without information regarding the timing of construction for this Segment and each of the neighboring segments, it is impossible to determine whether and to what degree the impacts of constructing this Segment will combine with the construction-related impacts of neighboring segments.</p>

⁹ *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1333, citations omitted.

¹⁰ See FEIR/S, p. 3.19-4 [“Appendix 3.19-A provides detailed information about the reasonably foreseeable development projects and plans, and Appendix 3.19-B provides similarly detailed information about transportation projects considered in the cumulative condition”]; see also Appendix 3.19-A [neighboring segments not listed among the reasonably foreseeable development projects and plans considered in the cumulative impacts analysis]; see also Appendix 3.19-B [neighboring segments not listed among the transportation projects considered in the cumulative impacts analysis].

¹¹ Some types of impacts, such as impacts to biological resources, traffic and air quality, will contribute to cumulative impacts on a regional basis, while other types of impacts, such as aesthetic and noise and vibration impacts are more localized. CEQA requires the scope of the cumulative impacts analysis to be adjusted based on the type of impact being considered. See, e.g., CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].

¹² See FEIR/S, pp. 2-100 – 2-105; see also *id.* at p. 16-45 [response General-25].

II. New Source of Unanalyzed Impacts to Church & Dwight's Facility Disclosed in Revisions to Environmental Analysis

The FEIR/S describes modifications to the Segment adjacent to Church & Dwight's facility that will cause new significant environmental impacts. Specifically, by moving the proposed route for the Hybrid and BNSF alternative alignments away from the center of Church & Dwight's property, the Authority has arguably reduced impacts to the facility. While this is a welcome improvement to the Segment's design, the currently proposed alignment would barely avoid the manufacturing facility, and only avoids the facility by reducing the adjacent right-of-way width from 100 feet to 80 feet.¹³


We are very concerned about the close proximity of the modified alignment for a number of reasons. First, the modified alignment will have noise, vibration and potentially wind impacts that were never studied in the DEIR/S and FEIR/S. Second, there may be a substantial risk of property damage or injury to employees if a train derailed near the facility. Third, the Authority has not provided us or the public any information concerning the safety risks and increased impacts that could result from the narrower, 80-foot wide right-of-way. These (and other) new potentially significant impacts require analysis and, thus, recirculation of the FEIR/S.¹⁴

III. Conclusion

For the reasons described above and in the incorporated comment letters, the Final EIR fails to fully comply with CEQA and should not be certified until it is substantially revised and recirculated for public review and comment.

Very truly yours,

FITZGERALD ABBOTT & BEARDSLEY LLP

By 
Jason W. Holder

cc: (via e-mail only)
Karen Sheehan, Church & Dwight Co., Inc.
Andy Forsell, Church & Dwight Co., Inc.

¹³ Attachment A, FEIR/S, Vol. III, Drawing Number T1120-A.

¹⁴ See CEQA Guidelines, § 15088.5.

ATTACHMENT A



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May 1, 2012

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California High Speed Rail Authority
Board of Directors
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Re: Comments Concerning Final EIR/EIS for the Merced to Fresno Segment
of the High Speed Rail Project

Dear Members of the CHSRA Board and Mr. Abercrombie:

On behalf of our clients, Madera County Farm Bureau ("Madera FB") and Merced County Farm Bureau ("Merced FB")¹, we are writing to (1) offer our comments concerning substantial revisions to the environmental impact analysis contained in the Final Environmental Impact Report/Final Environmental Impact Statement ("FEIR/S") and in a recently released Errata to the FEIR/S, (2) point out numerous deficiencies in responses to comments on the draft analysis offered by agencies and the public², and (3) urge the California High Speed Rail Authority ("CHSRA" or "Authority") to substantially revise and recirculate for public review the

¹ Madera FB and Merced FB are 501(c)(5) nonprofit organizations focused on preserving the agricultural heritage, farmland and rural character of Madera County and Merced County, respectively.

Madera FB represents our farmers and ranchers, our source for local, fresh, safe produce. Its membership is 1,200 individuals strong, including members of the farming community and the public who believe in the importance of supporting local farmers who feed their families. Its top commodities include almonds, pistachios, table & wine grapes and cattle. Merced FB is the leading agricultural organization in that county, representing over 1,500 farmers and ranchers. Merced FB was created in 1917 with the purpose of improving the ability of individuals engaged in production agriculture to utilize California's resources to produce food and fiber in the most profitable, efficient and responsible manner. Farm Bureaus are a unified national voice of agriculture, they work to enhance and strengthen the lives of rural Americans and to build strong, prosperous agricultural communities.

² Please note that while many deficiencies with the responses to public comments are described herein, this letter does not attempt to provide a comprehensive discussion of all deficiencies we have observed in the responses. The Authority simply provided too little time to both conduct a thorough review of all responses to comments and prepare an analysis that addresses each deficiency.

FEIR/S before taking any actions on the Merced to Fresno Segment ("Segment") of the High Speed Rail Project ("Project").³

On October 13, 2011, the Madera FB and the Merced FB each submitted separate comments on the Draft Environmental Impact Report/Draft Environmental Impact Statement ("DEIR/S") concerning the above-referenced Segment. We now submit the following comments on select Authority responses to these comments as well as on revisions to the analysis presented in the FEIR/S. As explained further below, the FEIR/S does not comply with CEQA, and therefore, the Board should not certify the FEIR/S and approve the Segment without first giving additional consideration to the issues raised in public comments, correcting the numerous deficiencies, recirculating a revised document and otherwise completing environmental review in accordance with the California Environmental Quality Act ("CEQA").⁴

Before addressing the FEIR/S revised analysis and the responses to comments, we note that the Authority has provided only the minimum amount of time for the public and other agencies to review the FEIR/S prior to the scheduled certification meeting on May 2, 2012.⁵ While a formal public review period at this stage may not be required by law, allowing the public and interested agencies time to review the substantially revised analysis and the responses to extensive public and agency comments would foster more meaningful public participation and sound decision-making. Instead, the Authority has provided just over one week to review thousands of pages of revised analysis and hundreds of responses to comments. This tactic, together with the relatively short 60-day review period for the massive DEIR/S, leaves the impression that the Authority seeks to "railroad" through its consideration of the FEIR/S so that it can expedite its pre-ordained approvals. As a matter of sound public policy and for the sake of beneficial cooperation concerning such important planning decisions for the San Joaquin Valley and the entire State, we urge the Authority to at least postpone its consideration of this FEIR/S for certification so that the public and interested agencies have sufficient time to review the revised analysis and responses and provide additional feedback.

I. General and Widespread Inadequacies With the Responses to Public Comments.

A. With Respect to Many Comments, the CHSRA Failed to Provide Good Faith Reasoned Responses.

CEQA requires detailed written responses to comments.⁶

³ We have prepared this letter in coordination with counsel for Preserve Our Heritage ("POH"). We have reviewed the separate comments on the FEIR/S submitted by POH, agree with these comments and incorporate them herein by reference. We also agree with the comments on the FEIR/S submitted by Church & Dwight, Inc. and, similarly, incorporate these comments by reference.

⁴ Public Resources Code ("PRC"), § 21000, et seq.

⁵ See *id.*, § 21092.5(a).

⁶ *Id.*, § 21091(d)(2); 14 Cal. Code Regs. ("CEQA Guidelines"), § 15088(a).

The written response shall describe the disposition of significant environmental issues raised.... In particular, the major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.⁷

"Problems raised by the public and responsible experts require a good faith reasoned analysis in response. [Citation] The requirement of a detailed analysis in response ensures that stubborn problems or serious criticism are not 'swept under the rug.'"⁸

By grouping multiple paragraphs of comments within a single categorized and numbered comment, the Authority has made it much more difficult to identify and review the response to each significant comment. This approach is even more troublesome for a separate reason, however: the Authority has failed to address numerous important points raised in the comments. This problem pervades the responses – here are just a few notable examples (among many):

- Comment 605-18: Madera County specifically identified 30 significant employers in the region that would be impacted by the Segment and stated that the EIR/EIS "should discuss the benefits and importance of these employers to the communities of Madera County." The response to this comment simply pointed to the general response Social-4. Social-4 does not specifically identify any significant employers that would be affected, nor does it or the revised FEIR/S provide the level of detailed analysis recommended by the County and required under CEQA. The analysis must specifically identify the significant employers in the region that will be impacted, so that it can more accurately identify and mitigate the numerous significant impacts.
- Comment 666-4: multiple comments concerning socioeconomic, community and environmental justice impacts were grouped together, but the response, which points to several master responses, fails to address comments concerning the significant environmental justice impacts upon farm-worker communities.
- Comment 666-7: multiple comments concerning "Project Impacts" are subsumed into one numbered comment and the response only responded to two comments while ignoring the rest. The response ignores comments concerning the Segment's indirect impacts to agriculture. For example, the response fails to address the indirect impacts that would be caused by a predictable increase in the cost of water to farmers. The response also is silent with respect to impacts to farmers caused by the inevitable disruption of regional highway and roadway systems that would result from selecting any of the three alternative wye alignments. In addition, the response completely

⁷ CEQA Guidelines, § 15088(c).

⁸ *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 722-723 (SCOPE), citing *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 357; see also *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1359-1360.

ignored the comment concerning the potential for the HST “vortex” or “wake” to adversely impact the multi-million dollar apiary production and pollination industry and natural process.

- Comment 717-2: multiple comments regarding the inadequate descriptions of the various alternatives were consolidated into one large group, and the responses failed to address numerous comments. For example, master responses General-1 and General-2 fail to specifically address the list of project features that were not sufficiently defined for public disclosure and impact analysis.
- Comment 717-3: multiple comments regarding the inaccurate environmental baseline were grouped together, but significant comments were ignored in the response. For example, master responses General-1 and General-2 do not address the lack of adequate surveys for biological resources within the impacted areas.
- Comment 717-6: multiple comments regarding inadequate analysis of secondary impacts caused by mitigation were grouped together and the response ignored several comments. For example, master responses Bio-2 and Bio-3 do not address the impacts to biological resources that could result from exclusion fencing, habitat restoration and enhancement efforts and the use of herbicides to control weeds.
- Comment 717-8: multiple comments regarding traffic impacts were grouped together, but the response failed to address several significant issues. For example, master response Traffic-1 does not address the lack of details concerning construction activities that will impact traffic. Traffic-1 also fails to address the comparatively poor level of traffic impact analysis conducted for rural areas, as opposed to more urbanized areas. Moreover, Traffic-1, a response that addresses traffic impact *mitigation*, does not address the comments concerning inadequate analysis of construction-related traffic *impacts* caused by, among other things, hauling construction material.
- 717-9: multiple comments regarding traffic mitigation measures were consolidated, but the response ignores some important issues. For example, the response fails to provide any support for the conclusory statements concerning the efficacy of traffic mitigation measures, and in particular those measures that were developed at the programmatic level. The response also dismisses concerns about secondary effects that will be caused by the measures. The response also ignores concerns about traffic impacts that could result from inadequate construction worker parking near the proposed stations. In addition, the response completely neglects to address concerns about the unaddressed efficacy of measures TR MM#3 through TR MM#11.
- 717-14: multiple comments regarding biological resources impacts were grouped together, but the response failed to address several significant issues. For example, the response does not address the failure to conduct appropriate wildlife surveys (following established protocol for each affected species) even where access to the impact lands was granted.

- 717-15: multiple comments regarding biological resource mitigation measures were consolidated, but the response ignores some important issues. For example, the response fails to address comments concerning the inability of measures requiring pre-construction surveys to correct the fundamental deficiency of an inadequate environmental baseline. The response also ignores the recommendation of a “no net loss” performance standard for compensatory mitigation.
- 717-17: as with the comments described above, multiple comments concerning the analysis of agricultural impacts and mitigation measures were grouped together, and only some of the comments were addressed in the response.
- 717-19: comments concerning the Segment’s cumulative impacts were all grouped together, but the response did not respond to all significant points raised in the comments. For example, the response is silent with respect to the Segment’s potential to contribute to night-time noise impacts. The response also does not specifically address the comments concerning the incorrect threshold used to determine whether cumulative impacts to biological resources would be significant. Nor does the response address separate comments concerning the Segment’s potential to cause cumulatively considerable impacts to aggregate resources, hazardous materials release, socioeconomics and land use.
- Comment 780-7: multiple comments regarding air quality impacts are grouped together with comments regarding the adequacy of proposed mitigation. The response glosses over the comments regarding air quality mitigation measures.
- Comment 780-8: multiple comments regarding noise impacts were consolidated for responses, but the responses fail to address all comments.
- Comment 780-10: multiple comments regarding impacts to biological resources are grouped together, but the responses fail to address all comments.
- Comment 780-11: multiple comments regarding impacts to agriculture are grouped together, and responses are provided for only a handful of the comments. The responses, for example, completely ignore the comments concerning impacts to agriculture that would result from road closures.
- Comment 780-13: multiple comments regarding socioeconomic impacts were consolidated for responses, but the responses fail to address all comments.

By generalizing the nature of the “comment,” grouping multiple separate comments together and providing responses to only some of the points raised in each grouping, the Authority glossed over many public comments, rather than respond to them with good faith reasoned analysis, as required.

B. Responses Point to Scattered and Buried Information.

“The CEQA EIR process ‘protects not only the environment but also informed self-government.’”⁸ The Supreme Court has repeatedly admonished lead agencies for not presenting a clear analysis of project impacts that the public and decision makers can follow:

The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. “[I]nformation ‘scattered here and there in EIR appendices,’ or a report ‘buried in an appendix,’ is not a substitute for ‘a good faith reasoned analysis. . . .’”⁹

In blatant and widespread violation of this bedrock principle, the Authority’s responses vaguely point to appendices to the FEIR/S, and even to reports prepared after the close of the comment period concerning the DEIR/S, as providing the information and analysis sought in comments.¹⁰

C. The Authority Brushed Aside Concerns Regarding Impacts to Agriculture

Obviously, the continued viability of farming in Madera and Merced counties is dependent on there being adequate farmland, a reliable water supply for irrigation, and the continued ability to readily access cultivated fields, orchards, vineyards, dairies and grazing areas. Among other deficiencies articulated in the two comment letters referenced above and as reiterated below, the FEIR/S’s analysis of agricultural land and groundwater impacts resulting from the proposed Segment alternatives is flawed, and fails to provide Madera FB, Merced FB, other stakeholders and CHSRA decisionmakers with accurate information to meaningfully understand the nature and scope of agricultural impacts.

For example, the chapter of the FEIR/S concerning impacts to agricultural lands fails to acknowledge that the Authority has already found that the Project’s overall impacts to agricultural lands to be significant and *unavoidable*. As such, the FEIR/S was required to analyze how this Segment contributes to those significant and unavoidable impacts. The DEIR/S failed to identify this Segment’s to the statewide impacts to agriculture, and due to inadequate project description, environmental baseline and impact analysis efforts it also failed to accurately identify the Segment’s own direct impacts to agriculture.

⁸ *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 195-96, citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123 (*Laurel Heights II*); *Citizens of Goleta Valley v. Bd. Of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 392 (*Laurel Heights I*); see also CEQA Guidelines, § 15002(a)(1) [one of the “basic purposes” of CEQA is to “[i]nform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities”].

⁹ *Vineyard Area Citizens for Local Control v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, quoting *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1239.

¹⁰ See, e.g., FEIR/S, 20-239 [response to comment 717-13, pointing to new Appendix 3.6-A to FEIR/S], 20-223 [response to comment 717-13, pointing to new Hydraulics and Floodplain Technical Report (Authority and FRA 2012)].

In addition, the DEIR/S and the revised analysis in the FEIR/S fail to accurately identify the myriad indirect or secondary effects that will flow from the significant impacts to agriculture. For example, several commenters raised the deficient analysis of the potential for blight to occur in areas near the Segment's alignment.¹¹ Some commenters expressed concerns over the impacts to agriculture that would result from road closures.¹² Other comments raised the high potential for significant impacts to communities in the region due to the "multiplier effect."¹³ The responses to these comments simply dismiss these concerns with scant analysis, despite the dearth of analysis in the FEIR/S.

D. Many Responses Confirm Deferred Impact Analysis and Mitigation

The responses defend the level of impact analysis and mitigation measure formulation on the basis that many aspects of the Segment's design have not been sufficiently developed. This justification is legally inadequate under CEQA.¹⁴ Rather than analyze a Segment with vaguely defined features, the Authority should have further developed the Segment's alternative designs before engaging in impact analysis. As it stands, the FEIR/S does not provide the meaningful analysis required by CEQA.

A number of responses to comments acknowledge that the Authority has not thoroughly analyzed the Segment's impacts and that it has not developed mitigation measures that will address those impacts that have been identified (let alone those that it promises will be identified when the Segment design is further refined).¹⁵ This systematic pattern of deferred analysis and mitigation flies in the face of CEQA's requirements. Before the Authority can certify the FEIR/S and approve the Segment, it must identify its impacts and mitigate them, to the maximum extent feasible. As it stands, the Authority is considering the approval of an immense project that will have widespread impacts, using an incomplete analysis that is based on a "half-baked" project design.

¹¹ See, e.g., *id.* at pp. 20-825, 20-841 [comments from POH regarding socioeconomic impacts and responses thereto].

¹² See, e.g., *id.* at p. 17-25 [EPA Comment 774-8].

¹³ *Ibid.*; see also *id.* at pp. 20-750, 20-756 [Comment 616-24 from Merced FB and response thereto].

¹⁴ See *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 405 [An EIR must "include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project"]; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 738 ["An accurate, stable and finite description of a project is basic to an informative and legally sufficient EIR. [Citation.] A curtailed or distorted description of the project may "stultify the objectives of the reporting process." [Citation.] Basic to environmental review is that it occur early enough in the planning stages of a project to enable environmental concerns to influence the project's program and design, yet late enough to provide meaningful information for environmental assessment. [Citation]"], citations omitted.)

¹⁵ See, e.g., FEIR/S, p. 16-67 [response Water-2, acknowledging impacts to drainage will be further evaluated when the Segment's design is refined and that "[e]ngineers participating in the acquisition process will ensure that site-specific drainage impacts to neighboring properties are not created"].

E. The Authority Failed to Consider Suggestions for Feasible Mitigation

An agency cannot satisfy its CEQA obligations simply by “considering” the environmental impacts of a proposed project.¹⁶ CEQA contains a “substantive mandate” that public agencies not approve projects with significant environmental effects if “there are feasible alternatives or mitigation measures” that can substantially lessen or avoid those effects.¹⁷ “CEQA compels government first to identify the [significant] environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives.”¹⁸

CEQA mandates project modification, where *feasible*, to avoid or substantially lessen significant environmental impacts that would otherwise occur. Project modification is not required where it is infeasible or where the responsibility for mitigation lies with some other agency.¹⁹ “‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”²⁰

“CEQA requires the lead agency to find, based on substantial evidence, that the mitigation measures are ‘required in, or incorporated into, the project’; or that the measures are the responsibility of another agency and have been, or can and should be, adopted by the other agency; or that mitigation is infeasible and overriding considerations outweigh the significant environmental effects.”²¹

[A]n adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible. [Citation.] While the response need not be exhaustive, it should evince good faith and a reasoned analysis. [Citation.]²²

The responses to suggestions and requests for additional mitigation to reduce the impacts to agriculture are inadequate for a number of reasons, not least of which is the fact they do not evidence good-faith and reasoned analysis.

The Authority’s responses to suggestions for additional mitigation to address impacts to agriculture do not meet the standards articulated in the caselaw, CEQA statute and Guidelines. This is one of Madera FB’s and Merced FB’s primary concerns. Numerous commenters

¹⁶ See *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, 326.

¹⁷ *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 134; Pub. Resources Code, § 21002.4.

¹⁸ *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1233.

¹⁹ CEQA Guidelines, § 15091, subds. (a), (b).

²⁰ Pub. Resources Code, § 21061.1; see also CEQA Guidelines, § 15364.

²¹ *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260, quoting PRC, § 21081, subd. (a)); see also CEQA Guidelines, § 15091, subd. (a).

²² *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029 [holding city failed to adequately respond to school district’s suggestions for further mitigating project’s air quality impacts].

provided specific mitigation suggestions to reduce impacts that the DEIR/S identified as significant and unavoidable after mitigation. For example, the Merced FB suggested that the Authority consider a 2:1 replacement ratio for compensatory mitigation for impacts to agricultural lands, stating that Merced County is considering adopting such a replacement ratio.²³ The FEIR/S acknowledges this and other mitigation suggestions in responses to comments, but instead of grappling with whether any of them are feasible to implement, the Authority reflexively restates the obvious (the approach to mitigation being criticized in the comment) and relies on conclusory and unelaborated assertions that the proposed measures meet applicable mitigation standards. The responses fail to discuss whether it is feasible to do more.

With respect to the suggestions for mitigating agricultural impacts by using a 2:1 replacement ratio, the response notes that such a standard has not been adopted by the County.²⁴ The Authority must consider whether it would be feasible to commit to a 2:1 (or higher) ratio in order to better mitigate the significant and as yet not fully mitigated impacts to agriculture.²⁵

The Authority must also consider enhancement of currently non-productive agricultural lands as a means to further reduce the Segment's significant agricultural impacts.²⁶ Other potentially feasible and effective measures to reduce impacts to agriculture include:

- The Authority and FRA shall cooperate with cities and counties through which the Segment route traverses in the development of "smart growth" policies (e.g., in downtowns around stations specific programming for higher densities, etc.; in rural areas specific policies for farmland protection, etc.).
- Prior to authorizing construction of the Segment, the Authority and FRA shall confirm that local jurisdictions have adopted "smart growth" policies that encourage transit-focused development in the vicinity of stations and discourage sprawl development in rural areas (identify performance standards for policies).
- Where feasible and as appropriate, the Authority and FRA shall purchase conservation and agricultural easements in areas adjacent to the approved Segment right-of-way (specify distance from right of way) where located in undeveloped areas outside of cities. The Authority shall identify all areas where the purchase of conservation and agricultural easements is not feasible, and shall compensate for these areas by purchasing additional conservation and agricultural easements in appropriate areas adjacent to developed areas (identify performance standards).

²³ FEIR/S, p. 20-751 [Comment 616-33].

²⁴ This response is surprising, because in other responses, the Authority has stated that it is not subject to local standards and land use controls. The Authority cannot have it both ways.

²⁵ Consider the following language for this measure: "Agricultural mitigation shall be required for direct or indirect conversion or change from agricultural use to a predominantly non-agricultural use. A minimum of two (2) acres of agricultural land of similar quality shall be preserved for each acre of agricultural land changed to a nonagricultural use (2:1 ratio)."

²⁶ Enhancement measures could include, for example, paying in lieu fees to an appropriate entity that could oversee projects that would provide irrigation water to lands currently without access to water. In addition, fees could be used to remediate unproductive soils in the region.

- The Authority and FRA shall cooperate with affected cities and counties in establishing urban growth boundaries (identify performance criteria).

Similarly, the responses also failed to include a good faith reasoned analysis concerning mitigation measures suggested by the Center on Race, Poverty & the Environment and California Rural Legal Assistance, Inc. to further reduce the Segment's significant air quality impacts.²⁷ The response to these comments completely ignores the mitigation suggestions.

An agency is not allowed to simply throw up its hands after proposing *some* mitigation and adopt a statement of overriding considerations. Meeting only required minimum standards does not excuse the independent obligation under CEQA to fully mitigate significant impacts to a less than significant level whenever it is feasible to do so. CEQA requires good-faith consideration of any and all additional feasible measures the agency could impose to further reduce the risk to a less than significant level. As stated by the California Farm Bureau Federation in its comments on the DEIR/S, without careful consideration of all potentially feasible mitigation measures, including those suggested by the public and other agencies, the Authority cannot make the findings required to support a statement of overriding considerations.²⁸

II. Specific Objections to the Authority's Standard Responses to Comments

During the limited time period within which we have had the opportunity to review the FEIR/S, we have observed numerous misstatements, omissions, inaccuracies and other problems with the responses to public comments. The following table summarizes some of our primary objections to the Standard Responses (again, due to severe time constraints, we could not address *all* deficiencies in the responses to individual comments).

Response	Primary Objection(s)
Gen. 1 – Tiering; Level of Detailed Impact Analysis; Formulation of Mitigation Measures	<p>The Authority's response ignores one of the most fundamental requirements for tiering under CEQA: the necessity to provide the reviewing public and outside agencies with a roadmap to the analysis upon which the second-tier project-level analysis relies. This requirement does not only apply to documents that use incorporation by reference, as the response implies. The DEIR/S failed to provide this critical information, leaving the public with insufficient information concerning issues supposedly resolved in the first-tier analysis. (<i>See</i> Comment 717-1.)</p> <p>The Authority has also failed to adhere to another requirement triggered by the tiering process – the duty to address how the impacts identified in the second-tier analysis contribute to the unmitigated impacts identified in the first tier analysis. The Authority adopted a Statement of Overriding</p>

²⁷ See FEIR/S, pp. 20-183, 20-187 [Comment 700-2 and response]; *see also id.* at pp. 16-51 – 16-52 [master response AQ-1].

²⁸ See FEIR/S, pp. 20-128 – 20-129 [Comment 706-18].

Response	Primary Objection(s)
	<p>Considerations for both the Statewide and the Bay Area programmatic analysis²⁹, but the DEIR/S and now the FEIR/S do not address how this Segment contributes to the identified impacts that cannot be mitigated to a less-than-significant level.</p> <p>The response acknowledges that surveys for biological resources, wetlands and cultural resources were not performed along most of the Segment alternative routes, but defends this approach as allowable under both NEPA and CEQA. This is incorrect. As stated in numerous public comments, CEQA requires the Authority to establishing an accurate baseline against which a project's impacts may be measured.</p>
Gen. 2 – Alternatives	<p>This response fails to address lack of analysis and evidence supporting conclusions concerning the feasibility of an I-5 Corridor alternative alignment. The Statewide Program EIR/S contains a cursory explanation concerning the elimination of the I-5 corridor alternative, but this explanation fails to identify the Project needs and purposes that this alternative would not satisfy. In addition, the 1996 studies upon which the Statewide Program EIR/S relies were prepared long before any impact analysis was conducted, before the Union Pacific Railroad ("UPRR") objected to the use of its right-of-way, and before members of the public were adequately notified of the major decision to build the track down the heavily developed and agriculturally rich Highway 99 corridor rather than the more sparsely developed and less productive I-5 corridor. (See Comment 717-20.) CEQA's public disclosure and participation purposes have been fundamentally compromised by the Authority's decision to omit any real analysis of the I-5 corridor alternative from the FEIR/S and from the Statewide Program EIR/S upon which the FEIR/S supposedly relies.</p> <p>The I-5 corridor alternative would meet most of the project objectives and would result in substantially fewer significant environmental impacts. Therefore, the FEIR/S must be revised to consider this alternative and recirculated for public review.</p>

²⁹ See Attachment A, Statement of Overriding Considerations adopted for the Statewide Project; see also Attachment B, Statement of Overriding Considerations adopted for the Bay Area to Central Valley Segment.

Response	Primary Objection(s)
Gen. 3 – HST and Population Growth	<p>Despite receiving numerous comments stating that the population growth estimates relied upon in the DEIR/S were overstated, the Authority's general response defends its reliance on these outdated and inaccurate estimates. Recent studies confirm that California's rate of population growth has slowed and is projected to remain at a slow pace for decades to come.³⁰ This trend has major implications for the forecasted baseline future conditions used for traffic and air quality analyses as well as ridership projections for the HST, among other things. The FEIR/S must be revised to reflect more accurate population growth trends.</p>
Gen. 22 – Piece-mealed Environmental Review	<p>The response to concerns about piece-mealing consideration of the Highway 152 wye option is inadequate. All east-west connection options should be considered together with all north-south alignment options proposed for this Segment. All east-west options have the potential to significantly contribute to the impacts caused by the north-south options, thereby exacerbating the considerable affects on communities in the region. Considering the wye options in this FEIR/S would allow an appropriately broad discussion of the totality of regional impacts. Moreover, some wye alternatives may be incompatible with some north-south alternatives. Selecting a north-south alignment now, may foreclose consideration of an environmentally superior wye alternative.</p> <p>While the response attempts to address piece-mealing concerns with respect to consideration of the east-west Hwy 152 wye alternative, it completely ignores other piece-mealing concerns regarding the segmentation of analysis for the nine different segments of the HST Project as a whole. Despite preparing a Program EIR for the statewide Project, the Authority has violated CEQA's prohibition against piece-mealing because environmental review for each Project segment fails to consider the impacts of neighboring segments as contributing to the overall impacts of the Project. In other words, by dividing the detailed project-level analysis into several segments, the Authority fails to analyze and mitigate the Project's impacts as a whole. The statewide Program EIR/S does not suffice because its analysis was far too general to provide meaningful consideration of the Project's myriad significant impacts.</p>
Gen. 23 – Project Description	<p>The level of detail concerning Segment features provided in the DEIR/S, and now supplemented with new information in the FEIR/S, remains insufficient for conducting the detailed impact analysis required under CEQA. The level of detailed environmental review is especially</p>

³⁰ See, e.g., Attachment C, Los Angeles Times, *California's population growth to slow in coming decades*, April 25, 2012.

Response	Primary Objection(s)
	inadequate with respect to impacts to rural areas within the Segment area.
Ag.-2 – Severance	<p>The response’s analysis concerning the impacts to agriculture that would be caused by severing currently intact parcels is not supported by substantial evidence. Further, the loss of productivity and efficiency could lead to physical effects on the environment that must be analyzed – this impact is not merely an economic or social effect as the response suggests.</p> <p>While the response promises more careful parcel-specific analysis during the appraisal process, the careful analysis must occur now, before the Segment and the Project as a whole gain irreversible momentum.</p> <p>In addition, the response refers to mitigation measure Ag-MM#2 as a “realistic commitment for mitigating severance impacts, and is consistent with programs used for other linear transportation facilities (e.g. Caltrans projects).” But a recently released Errata to the FEIR/S reveals that mitigation measure Ag-MM#2 is no longer being proposed – instead, consolidation of severed parcels is now proposed as part of project design.³¹ A major problem with this approach is that it provides no assurance that consolidation of severed parcels will be implemented – if this planned effort had remained an agricultural impact mitigation measure, the Authority would have to implement, monitor and report its implementation.</p> <p>As now proposed, the description of the efforts that will be taken as part of Segment design lacks any enforceable performance standards, so the Authority can completely fail in its efforts to make the severed remnant parcels productive, exacerbating already significant impacts to agriculture in the region. Madera FB and Merced FB <i>strongly</i> object to this last minute change to important mitigation and urge the Authority to retain Ag-MM#2 as an enforceable mitigation measure for the Segment.</p>
Water-4 – Regional Water Supply Impacts	<p>The general response to comments concerning this issue states that the analysis and conclusions in the DEIR/S concerning the Segment’s impacts to regional water supplies is based on a report entitled “<i>Final Draft Water Use Analysis for the CHST Merced to Fresno Section</i> (Authority 2011).” This report was not made available to the public on the Authority’s website during the comment period for the DEIR/S, is currently not available among the Technical Reports listed on the DEIR/S website, and is not otherwise available on the Authority’s website or the CDs sent to those who commented on the DEIR/S. As such, the DEIR/S and the FEIR/S, including general response Water-4 are not based upon substantial</p>

³¹ See Errata to FEIR/S, pp. 27-29.

Response	Primary Objection(s)
	<p>evidence in the record.</p> <p>Based on the evidence that is available, it is unclear whether the Authority compared the Segment's estimated water demand with the actual water demand that would be displaced. It is also unclear whether the Authority considered the water demand associated with constructing neighboring segments of the Project, together with the demands of constructing this Segment.</p>
Traffic-1 – Impact of Road Closures	<p>This response dismisses the concern, expressed by many commenters, that temporary and permanent road closures would have a significant disruptive effects on agricultural operations.³² According to this response, in lieu of more carefully analyzing the Segment's traffic impacts as suggested, the Authority will require a Traffic Management Plan ("TMP") that would identify and respond to various traffic impacts. The time for impact analysis is now, before the Segment is approved and the Project gains "irreversible momentum."</p>
Social-1 – Property Acquisition	<p>This response (referred to in response to Comment 666-10) does not address the concern that federal funds may not be available to compensate displaced farms and other businesses. The response also does not address the increased financial burden on the state if federal funds are not available.</p> <p>This responses states "Eminent domain would be viewed as a last resort used to carry out the will of the voters of the state in developing a statewide HST system."³³ This reliance on the outcome of the vote concerning Proposition 1A is misplaced, in light of (1) the significant and growing public controversy over the Project caused by escalating cost estimates and (2) increased uncertainty regarding Project funding.³⁴ While this response and master response General-9 tout the public support garnered for Proposition 1A, recent surveys show the majority of the public no longer supports the Project.³⁵</p>

³² See, e.g., FEIR/S, pp. 20-750 [Comment 616-25], 20-751 [Comment 616-31], 20-319 [Comment 631-9].

³³ FEIR/S, p. 16-79.

³⁴ See Attachment D, California Watch, *Cost of high-speed rail project balloons* (August 29, 2011); see also Attachment E, Legislative Analysts Office, *The 2012-13 Budget, Funding Requests for High-Speed Rail* (April 2012) ["funding for the project remains highly speculative and important details have not been sorted out"].

³⁵ See, e.g., Attachment F, California Watch, *Survey: Likely voters back tax increase, oppose high-speed rail* (March 8, 2012).

III. Persistent Deficiencies in the Environmental Impact Analysis

A. Inadequate CEQA Water Supply Analysis Concerning Construction Phase Water Demand and Water Supply

As discussed above, Table 3.6-11 of the FEIR/S estimates that the annual construction phase water demand for the Segment is 577-644 AF, and that the total (5-year) construction phase water demand for the Segment is 2,880-3,220 AF. Table 3.6-11 does not offer any information as to the “source” of this construction phase water supply, and the narrative in Section 3.6 only states the following: “A variety of sources would provide water, depending on the alternative constructed.”³⁶ This sentence offers no information whatsoever as to where the construction phase water supply might come from, whether the Authority has rights to access such water supply, or what environmental effects might result from accessing this (not-identified) water supply.

Section 3.8 of the FEIR/S is on “Hydrology and Water Resources” so one might have expected to find some analysis of the construction phase water supply here. Yet, it is not to be found in this section either. Under the heading “Permanent Impacts on Groundwater Quality and Volume,” Section 3.8 states: “With respect to groundwater volume, because groundwater is currently used for irrigation and/or domestic supply along at least some portion of the project alignment footprint, aquifer impacts would be reduced **because no water would be used along the alignment.**”³⁷ However, this claim is directly contradicted by Section 3.6 of the DEIR/S express acknowledgment that between 2,880-3,220 AF of water would be used during the construction phase of the project. Moreover, because the FEIR/S provides no hint as to the source(s) of the construction phase water supply, it is not possible to evaluate the extent to which this 2,880-3,220 AF might impact the groundwater resources. If groundwater is going to serve as the construction phase water supply, then the withdrawal of approximately 3,000 AF of water from the aquifer in a 5-year period is quite likely to adversely impact the groundwater table (and those persons/resources that rely upon such groundwater, including the members of the Madera FB and Merced FB).

This would also be true if the source(s) of the construction phase water supply were surface waters, contract water with the State Water Project (SWP) or federal Central Valley Project (CVP) or reclaimed/recycled water. The diversion and use of surface waters for the Segment could affect instream fisheries and water quality and the availability of such surface waters for other users. The use of SWP and CVP contract water could similarly reduce the availability of such water for other SWP and CVP contractors. Even the use of reclaimed/recycled water could reduce the availability of such water for other customers. Because the FEIR/S provides no information on the source(s) of the construction phase water supply, the FEIR/S is similarly devoid of analysis of the environmental impacts on such sources associated with such usage.

³⁶ FEIR/S, p. 3.6-31.

³⁷ *Ibid.*, bold added.

This falls far short of what CEQA requires, and evidences the lack of substantial evidence to support the finding (in Section 3.8.8.9 of the FEIR/S) that “No significant impacts on hydrology and water resources have been identified.”

B. Improperly Piecemealed Water Demand Estimates

As other reviewers of the DEIR/S and FEIR/S have commented, the attempt to limit the project description and environmental impact analysis to the Segment violates the piecemealing prohibitions under NEPA and CEQA. The Segment should more properly be understood as simply a component of the larger integrated statewide Project. The Authority has pointed to documentation that it believes establishes the independent utility of constructing the Segment (independent of any other segments), but the Authority's reliance on this documentation seems dubious and strained. The larger administrative record provides overwhelming contrary documentation indicating that the Segment is only being undertaken as part of larger statewide HSRT project. The analysis of the Segment's impacts to water supplies and other important regional resources, such as agriculture, must be analyzed together with the closely related impacts of the neighboring Project segments. By dividing and considering in isolation the Segment's regional impacts, the Authority has committed the “fallacy of division.”³⁸

C. The Authority Has Not Adequately Explained its Reasons For Not Preparing a Water Supply Assessment.

The DEIR/S for the Segment did not include or reference a Water Supply Assessment (“WSA”) for the project, and did not include discussion as to why an WSA was not prepared. The October 13, 2011 comment letter on the DEIR/S submitted on behalf of POH noted this omission, stating that it “does not appear that the Authority has prepared a water supply assessment pursuant to Cal. Water Code Section 10910 Because it has not done so, the Authority has failed to comply with the Water Code.”³⁹ In the FEIR/S, the Authority offered the following response to this comment from POH: “As noted in Section 3.6, [the Segment] would not result in a **net increase** in water demand. Therefore, SB 610 does not apply.”⁴⁰ The Authority's use of the phrase “net increase” in its response suggests a fundamental misunderstanding of how a SB 610 WSA differs from the environmental impact analysis of water supply performed under CEQA.

Under CEQA, where the lead agency is seeking to assess the significance of environmental impacts of a project with water demand in excess of current existing water demand, the question of whether a proposed project would result in an “net increase” in water demand may be legally pertinent. However, such a consideration is irrelevant for purposes of an SB 610 WSA which is concerned with establishing a secure water supply for a project rather

³⁸ *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 [“[A] narrow view of a project could result in the fallacy of division [citation], that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole”], citing *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1144.

³⁹ See FEIR/S, p. 20-826 [Comment 780-15].

⁴⁰ See *id.* at p. 20-846.

than assessing the environmental impacts of a project. This is why the words “net increase,” “increased demand,” “existing conditions” and “baseline conditions” are not anywhere to be found in SB 610 (as these are CEQA environmental impact concepts with no bearing on SB 610's applicability).

The Authority has failed to provide a meaningful explanation for why it has not prepared a WSA pursuant to Water Code, section 10910. The explanation provided in response to the comment is based on an incorrect interpretation of Water Code, section 10910. The requirement to prepare a WSA is triggered by the nature of the project or the gross amount of its water demand – there is no “net increase” (comparison to baseline water use) component applicable to the thresholds for preparation of a WSA.

D. The FEIR/S Failed to Analyze a Reasonable Range of Alternatives

CEQA requires that an EIR include a reasonable range of alternatives to evaluate the feasibility of reducing the adverse environmental impacts of a proposed project. The CEQA requirement that EIRs identify and discuss alternatives to a proposed project stems from the fundamental statutory policy that public agencies should require implementation of feasible alternatives or feasible mitigation measures to reduce the project's significant environmental impacts.⁴¹

Here, given the FEIR/S's conclusion that the Project will result in significant and unavoidable impacts on a wide range of resources⁴², the above CEQA requirements dictate that the DEIR/S should have included and considered alternatives that would avoid or reduce many of these impacts in its range of alternatives or explain why such alternatives are not feasible. Instead, the DEIR/S merely considered the impacts of a No Project Alternative and three very similar alternatives proposed in areas near Highway 99. As numerous commenters have already stated, the DEIR/S should have considered the I-5 corridor alternative, and any other similarly distinctive alternatives, so that the range of alternatives would be sufficiently broad. Rather than evaluate the feasibility and impacts of such an alternative in response to these suggestions, Authority staff have chosen to defend its constrained analysis. As stated in comments concerning the DEIR/S, the I-5 corridor alternative would indeed accomplish most of the basic project objectives while causing fewer significant impacts.⁴³ The 1996 reports upon which the Authority continues to rely do not provide the substantial evidence required to eliminate this superior alternative from consideration in the FEIR/S analysis.⁴⁴

⁴¹ PRC, §§ 21002.1(a) & (b), and 21081(a); CEQA Guidelines, § 15126.6(a).

⁴² See FEIR/S, p. 6-3 [identifying significant and unavoidable impacts in the categories of Air Quality, Noise and Vibration Effects, Biological Resources, Socioeconomics, Communities, and Environmental Justice, Agricultural Lands, Parks, Recreation, and Open Space, Aesthetics and Visual Resources, and Cultural Resources.].

⁴³ See, e.g., *id.* at pp. 20-234 – 20-235 [Comment 717-20].

⁴⁴ Because the FEIR/S is tiered off of the Statewide Program EIR/EIS, and because this first-tier document cites the 1996 reports, the 1996 reports must be included in the administrative record for the Segment.

IV. New Sources of Unanalyzed Impacts Disclosed in Revisions to Environmental Analysis

The FEIR/S describes modifications to the Project that will make impacts in several categories substantially worse. For example, the FEIR/S states that the Segment will substitute concrete slab for ballast along much of the alignment.⁴⁵ The use of concrete slab over more of the Segment will increase the Segment's noise impacts substantially, producing the massive additional volume of concrete for the slab structures would also require substantially more water during construction. These and other substantial increases in impacts requires recirculation of the FEIR/S.⁴⁶

In response to comments, Authority staff now propose to include wildlife crossing structures as part of the Project's design.⁴⁷ While this is a welcome improvement to the design, constructing these structures will produce noise, air quality, traffic and other significant impacts – impacts that were not included in the DEIR/S analysis. These increased impacts also trigger the requirement to recirculate the analysis for public review.

The FEIR/S also adds the following information regarding a traction power substation (TPSS) for the UPRR/99 Alternative:

The UPRR/SR 99 Alternative in combination with the Ave 21 Wye would have a TPSS in this vicinity that would connect to an existing PG&E substation on Porters Road near South Minturn Road via an existing overhead power line. *The line would be upgraded to 115 kV for approximately 17,000 feet to provide adequate power supply for the TPSS needs in this location.*⁴⁸

Comments regarding the DEIR/S stated that such utility line upgrades would cause significant effects that the Authority must analyze and mitigate.⁴⁹ The FEIR/S fails to address the impacts associated with this newly identified feature of the Segment. The FEIR/S also fails to address secondary significant impacts associated with newly proposed mitigation measures for certain intersections and roadways, including:

- TR MM#7 – Widen Approaches to Intersections: applicable to:
 - Blythe Ave/Shaw Ave,⁵⁰
 - Golden State Blvd/Santa Ana Ave,
 - Cornelia Ave/Santa Ana Ave,
 - Veterans Blvd/Golden State Blvd Connector,

⁴⁵ FEIR/S, p. 3.4-13; *see also id.* at p. 20-833 [response to Comment 780-8].

⁴⁶ *See* CEQA Guidelines, § 15088.5.

⁴⁷ FEIR/S, pp. 2-44 – 2-45.

⁴⁸ *Id.* at p. 2-49.

⁴⁹ *See, e.g., id.* at p. 20-216 [Comment 717-2].

⁵⁰ The original version of this table in the DEIR/S identified for mitigation "Figarden Dr/Bullard Ave," an entirely different intersection. The FEIR/S does not provide any explanation for the substitution of Blythe Ave/Shaw Ave for mitigation of impacts caused by Carnegie Avenue closure and the new overpass at Shaw Avenue.

- Broadway Ave/Ventura Ave,
- W Olive Ave /SR 99 SB Ramps,
- W Olive Ave /SR 99 NB Ramps,
- E St/Tulare St (Tulare Street Overpass Option only),
- F St/Tulare St (Tulare Street Underpass Option only), and
- Van Ness Ave/Tuolumne St (*among others*);
- TR MM#8 – Add Exclusive Turn Lanes to Intersections: applicable to:
 - Blythe Ave/Shaw Ave.,
 - Cornelia Ave/Santa Ana Ave,
 - Veterans Blvd/Golden State Blvd Connector,
 - Broadway Ave/Ventura Ave,
 - W Olive Ave /SR 99 SB Ramps,
 - W Olive Ave /SR 99 NB Ramps,
 - E St/Tulare St (Tulare Street Overpass Option only),
 - F St/Tulare St (Tulare Street Underpass Option only) and
 - Van Ness Ave/Tuolumne St; and
- TR MM#11 - Add Lanes to the [Roadway] Segment: applicable to:
 - W Olive Ave, between SR 99 Ramps and N West Ave,
 - W Belmont Ave, between N Arthur Ave and SR 99 Ramps,
 - H St, between East Divisadero St and Stanislaus St,
 - Stanislaus St, between Broadway St and E St,
 - Fresno St, between G St and SR 99 NB Ramps, and
 - Van Ness Ave, between Ventura Ave and SR 41 Ramps (Tulare Street Overpass Option only) (*among others*).⁵¹

These additional Segment features and new mitigation measures with the potential for significant impacts were not analyzed at the DEIR/S stage. Introducing this and other significant new information now also triggers the requirement to recirculate a revised DEIR/S for public review and comment.⁵²

While the FEIR/S retains the conclusory statement that none of the traffic mitigation measures would cause secondary significant effects, this statement is both unsupported by evidence and is obviously false.⁵³ Such intensive and widespread roadwork will inevitably cause traffic, air quality and noise impacts, and potentially other impacts as well. The Authority has apparently not made *any* effort to analyze the impacts that would be caused by mitigation measures that it proposes to reduce Segment impacts to less-than-significant levels. If it has

⁵¹ See FEIR/S, pp. 3.2-132, 3.2-133, 3.2-135, 3.2-142 – 3.2-148; see also Errata to FEIR/S, p. 9.

⁵² This, along with the other examples discussed above, illustrates the problem with refining the Segment's design at this late stage of the environmental review process. The design of the various alternatives for the Segment should have been better-developed before the environmental review process started, so that the analysis could accurately address the full scope of the Segment's impacts.

⁵³ See FEIR/S, p. 3.2-131; see also Transportation Technical Report, pp. 7.1, 7.5 [same conclusory statements that no secondary impacts would result from mitigation measures, with no supporting analysis].

conducted an analysis of potentially secondary impacts, such an analysis is not apparent from the FEIR/S or from the referenced technical appendix. As such, at the very least, the Authority has violated CEQA by not providing the public with roadmap to its analysis of these potentially significant impacts.

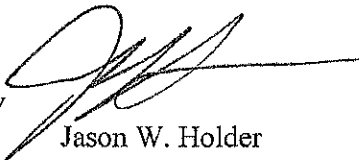
Further, because traffic impact analysis was generally much more detailed in urban areas than in rural areas, the impacts caused by the Segment, as well as any applicable proposed mitigation measures, have not been adequately identified and analyzed in the FEIR/S.

V. Conclusion

The FEIR/S fails to correct the myriad deficiencies identified in comments on the DEIR/S. In addition, as outlined above, responses to many comments do not provide the good faith analysis required and obscure rather than clarify the analysis. The Standard Responses gloss over and do not adequately address the concerns expressed in comments, contrary to claims in the FEIR/S. Further, significant new information has been added to the FEIR/S, requiring its recirculation for public review. Accordingly, the FEIR/S fails to fully comply with CEQA and should not be certified.

Very truly yours,

FITZGERALD ABBOTT & BEARDSLEY LLP

By 
Jason W. Holder

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ATTACHMENT A

VIII. STATEMENT OF OVERRIDING CONSIDERATIONS

The program-level environmental impact report/ environmental impact statement (EIR/EIS) prepared for the California High-Speed Train (HST) project concluded that significant and unavoidable impacts would occur as a result of the proposed project. In keeping with CEQA Section 21081 and the requirements of the State CEQA Guidelines 15093, this statement of overriding considerations has been prepared. The significant and unavoidable impacts and the benefits related to the HST project are described below. The California High-Speed Rail Authority (Authority) Board has weighed these impacts and benefits of the HST system. As described below, the Authority has found that the transportation, environmental, economic, and social benefits of the HST project outweigh the significant and unavoidable environmental impacts.

The level of analysis provided in this program EIR is less detailed than that typically provided in a project-level EIR, such as for approval of a development project like a hotel at a particular location. Because a program EIR necessarily provides less detailed analysis and less detail concerning mitigation measures, it is more difficult to conclude with certainty that the inclusion of identified mitigation measures or strategies in the program approval will necessarily reduce adverse impacts to a less-than-significant level. For example, the program EIR notes that implementing the train system would result in some loss of agricultural land (i.e., conversion of land currently in agricultural use to urban use), but it cannot be determined at the program level of analysis exactly where and how much agricultural land would be needed for the train system. For such areas of uncertainty, a statement of overriding considerations is needed.

General Findings

Potentially significant/unavoidable impacts associated with the following resource areas might occur as a result of the HST System Alternative:

- Land Use:
 - Incompatibility with Land Uses and Disruption to Communities
 - Impacts to Neighborhoods During Construction
- Agricultural Lands:
 - Conversion of prime, statewide important, and unique farmlands, and farmlands of local importance, to project uses
- Aesthetics and Visual Resources
- Cultural and Paleontological Resources
 - Impacts to Archaeological Resources and Traditional Cultural Properties
 - Impacts to Historic Properties/Resources
 - Impacts to Paleontological Resources
- Biological Resources and Wetlands

- Impacts to Sensitive Habitat and Sensitive Vegetation Communities
- Impacts to Wildlife Movement Corridors
- Impacts to Non-wetland Jurisdictional Waters
- Impacts to Wetlands
- Impacts to Marine and Anadromous Fishery Resources
- Impacts to Special Status Species
- Public Parks and Recreation Resources—Impacts to Parks and Recreational Resources

Overriding Considerations

The Authority has determined that the need for a high-speed train system is directly related to the expected growth in population and resulting increases in intercity travel demand in California over the next twenty years and beyond. As a result of this growth in travel demand, there will be increases in travel delays from the growing congestion on California's highways and at airports. In addition, there will be effects on the economy and quality of life from a transportation system that is less and less reliable as travel demand increases and from deteriorating air quality in and around California's metropolitan areas. The intercity highway system, commercial airports, and conventional passenger rail serving the intercity travel market are currently operating at or near capacity, and will require large public investments for maintenance and expansion in order to meet existing demand and future growth.

The proposed high-speed train system would provide a new mode of high-speed intercity travel that would link the major metropolitan areas of the state; interface with international airports, mass transit, and highways; and provide added capacity to meet increases in intercity travel demand in California projected for the year 2020 and beyond in a manner sensitive to and protective of California's unique natural resources.

The evaluation and findings indicate that the Modal Alternative, improvement to existing highway and air modes of intercity travel, would help meet projected needs for intercity travel in 2020, but would not satisfy the purpose and objectives of the program as well as the HST alternative. In addition, although the capital cost of the Modal Alternative would be over two times the estimated capital cost of the HST Alternative, the Modal Alternative would have considerably less sustainable capacity than the HST Alternative to serve California's intercity travel needs beyond 2020.

The evaluation and findings of the Final Program EIR/EIS also indicate that taking no action under the No Project Alternative would not meet the intercity travel needs projected for the future (2020 and beyond) as population continues to grow, and would fail to meet the purpose and objectives of the program which can be met by the Preferred HST Alternative. The No Project Alternative would result in environmental impacts but would not offer travel improvements compared to the Modal and HST Alternatives.

As informed by the analysis presented in the Draft Program EIR/EIS, public and agency comments, and additional analysis described in the Final Program EIR/EIS, the Authority and

the FRA have concluded that the HST alternative is the preferred system alternative and have identified preferable alignments and stations. In addition, the HST Alternative is identified as environmentally preferable under NEPA as well as the environmentally superior alternative under CEQA.

BENEFITS OF THE CALIFORNIA HIGH-SPEED TRAIN SYSTEM

Benefits to the Transportation System

Highway traffic conditions are currently highly congested and are projected to further deteriorate under the No Project Alternative. In every region studied, the No Project Alternative would not add sufficient capacity to accommodate the projected growth in highway travel, including both the existing large urban areas (i.e., the San Francisco Bay Area and Los Angeles basin) and the growing urban areas in the Central Valley. Future forecast increases in travel demand will lead to greater congestion, increased total travel time delay, and reduced reliability on the primary highway corridors throughout the study area. Of the highway segments analyzed, over half are already operating beyond their capacity with “stop-start” conditions during peak periods, and congestion is estimated to increase by nearly 40% under the No Project Alternative. Between Los Angeles and Bakersfield, highway traffic congestion is forecasted to increase by over 70%, with portions of I-5 burdened during peak periods with more than three times the volume of traffic than highway capacity to carry it. Typically, this would cause the morning peak period of congestion in urban areas to extend from two hours under existing conditions, to four hours by 2020. Because this program-level analysis could not attempt to quantify localized capacity restriction (e.g., bottlenecks at given interchanges) and incidents on the highways—accidents, breakdowns, and highway maintenance that are unpredictable and are responsible for a majority of the congestion on California’s urban highway networks—congestion would be likely considerably greater than forecast under the No Project Alternative.

Likewise, many of the airports in the study area are currently at or near capacity and could become severely congested under the No Project Alternative. The number of passengers that enplaned and deplaned in California in 1999 (almost 173 million) is expected to more than double by 2020. However, the aviation component of the No Project Alternative consists primarily of additional gates, access improvements, and parking expansion. No additional runways or other major capacity expansion projects are included. Capacity constraints are likely to result in considerable future aircraft delays, particularly at California’s three largest airports.¹ San Francisco International Airport (SFO) has “one of the worst flight delay records of major U.S. airports—only 64 percent of SFO flights were on time during 1998.”² According to the Web site for SFO, within 10 years, the three Bay Area airports will not, even during good weather, have sufficient capacity to meet regional air traffic demand. Los Angeles International Airport projects a demand of 19.2 million more annual passengers than their 78.7 million total passenger capacity by 2015, and San Diego International-Lindbergh Field expects to be at

¹ California High Speed Rail Commission 1996. Working Paper #3, Cost Comparison of Mode Alternatives. June 20.

² San Francisco International Airport. 2003. Building the future. Available at: <www.flysfo.com>. Accessed: December 2003.

capacity prior to 2020.³ The projected delays at heavily used airports and forecasted highway congestion would continue to delay travel, negatively affecting the California economy and quality of life.

The HST System Alternative would meet the need for a safe and reliable mode of travel that would link the major metropolitan areas of the state and deliver predictable, consistent travel times sustainable over time. The HST System Alternative also would provide quick, competitive travel times between California's major intercity markets. Table S.5-1 shows examples of door-to-door travel times between several city-pairs for 2020, comparing the automobile and air transportation travel times estimated for the No Project Alternative to the travel times estimated for the HST System Alternative. For longer distance intercity markets such as San Francisco to Los Angeles, the HST System Alternative would provide door-to-door travel times that would be comparable to air transportation and less than one half as long as automobile travel times. For intermediate intercity trips such as Fresno to Los Angeles, the HST System Alternative would provide considerably quicker travel times than either air or automobile transportation, and would bring frequent HST service to many parts of the state that are not well served by air transportation. In addition, the passenger cost for travel via the HST service would be lower than for travel by automobile or air for the same intercity markets.

The HST System Alternative would provide a new intercity, interregional, and regional passenger mode—the high-speed train—which would improve connectivity and accessibility to other existing transit modes and airports compared to the other alternatives. The proposed HST system is the only alternative that would improve the travel options available in the Central Valley and other areas of the state with limited bus, rail, and air service for intercity trips. The HST system also provides system redundancy in cases of extreme events such as adverse weather or petroleum shortages (HST trains are powered by electricity which can be generated from non-petroleum or petroleum-fueled sources; automobiles and airplanes currently require petroleum). The HST System Alternative would provide a predominantly separate transportation system that would be less susceptible to many factors influencing reliability, such as capacity constraints, congestion, and incidents that disrupt service. In addition, since high-speed trains are able to operate in all weather conditions, the on-time reliability of this mode of travel would be superior to travel by either auto or air. Based on experience with HST systems in other countries, HST has a lower accident and fatality rate than automobile travel. In terms of sustainable capacity, the HST System Alternative would offer greater opportunities to expand service and capacity with minimal expansion of infrastructure, than either the No Project or Modal Alternatives.

³ San Diego Airport. 2001. The San Diego Airport Economic Analysis and Public Information Program. San Diego, CA.

Table S.5-1
Estimated Total Travel Times (Door to Door) between City Pairs by Auto, Air, and HST in
2020 (Hours:Minutes)

City Pairs	Auto ¹ (No Project Alternative)	Air (No-Project Alternative)		HST (HST Alternative) (Optimal Express Time)	
	Total	Line Haul ²	Total	Line Haul ²	Total
Los Angeles downtown to San Francisco downtown	7:57	1:20	3:32	2:35	3:30
Fresno downtown to Los Angeles downtown	4:30	1:05	3:02	1:22	2:33
Los Angeles downtown to San Diego downtown	2:49	0:48	3:00	1:13	2:16
Burbank (Airport) to San Jose downtown	6:50	1:00	3:14	1:49	2:52
Sacramento downtown to San Jose downtown	2:40	No service	No service	0:50	1:53
Auto trips are assumed to be "point to point" and therefore do not have a line-haul (time in vehicle) time associated with their travel times. Time in airplane or train. Source: Parsons Brinckerhoff.					

The HST System Alternative would add capacity to the state's transportation infrastructure and reduce traffic on certain intercity highways and around airports to the extent that intercity trips are diverted to the HST system. It also would eliminate delays at existing at-grade crossings where the HST system would provide grade separation. The HST System Alternative would reduce travel time, improve reliability, and divert auto and air traffic and thereby reduce highway congestion. The HST System Alternative also would decrease injuries and fatalities due to diversion of trips from highways, improve connectivity, and add a variety of connections to existing modes, additional frequencies, and greater flexibility.

Benefits to the Environment

The Authority has made a serious commitment to utilize existing transportation corridors and railroad rights of way to minimize the impacts on California's treasured landscape. Furthermore, a key objective to avoid and/or minimize the potential impacts to cultural, park, recreational and wildlife refuges has been largely met. The preferred HST alignment and station locations best meet the objectives and criteria for minimizing potential environmental impacts while maximizing HST ridership potential and connectivity and accessibility.

The USEPA and USACE have participated in the development of both the Draft and Final Program EIR/EIS and in accordance with the memorandum of understanding among Federal agencies for this environmental review, were consulted concerning the selection of the preferred corridor and route most likely to yield the least environmentally damaging practicable alternative (LEDPA) and as identified as preferred in the Final Program EIR/EIS. The USEPA and USACE have concurred that the preferred HST alignment and station options identified in the Final Program EIR/EIS are most likely to contain the LEDPA.

The HST System Alternative would provide air quality, energy consumption, and noise benefits. The HST system would decrease air pollutants statewide and in all air basins analyzed by reducing pollution generated by automobile combustion engines. This reduction would be a result of decreased vehicle miles traveled by automobiles and decreased automobile congestion.

The HST system would also lower total energy consumption because a HST system uses less energy to move passengers than either airplanes or automobiles: the HST system would use about one-third the energy needed by an airplane, about one-half the energy needed by an automobile for an intercity automobile trip, and one-fifth the energy needed by an automobile for a commuter automobile trip.

In addition, noise reduction would occur in locations where grade separations eliminate horn and crossing gate noise at existing grade crossings.

Land Use Planning Benefits

The HST System Alternative would be highly compatible with local and regional plans that support rail systems and transit-oriented development (TOD) and would offer opportunities for increased land use efficiency (i.e., higher density development and reduced rate of farmland loss). The HST System Alternative would also meet the need for improved inter-modal connectivity with existing local and commuter transit systems. In contrast, the highway improvement options under the Modal Alternative would encourage dispersed patterns of development and would be inconsistent with the objectives of many local and regional planning agencies to promote transit-oriented, higher-density development around transit nodes as the key to stimulate in-fill development that makes more efficient use of land and resources and can better sustain population growth. Urbanized areas in California are expected to grow by 47% between now and 2035 under the No Project Alternative. Under the Modal Alternative, urbanized area growth is expected to be about 1.4% (65,500 ac [26,507 ha]) higher than the No Project Alternative, while the HST System Alternative would result in a slight decrease in urban area growth (2,600 ac [1,052 ha]) compared to the No Project Alternative. However, the HST System Alternative is expected to result in a slightly greater increase in population than the No Project and Modal Alternatives.

HST stations in California will be multi-modal transportation hubs. All the selected high-speed rail station locations would provide linkage with local and regional transit, airports, and highways. In particular, convenient links to other rail services (heavy rail, commuter rail, light rail, and conventional intercity) will promote TOD at stations by increasing ridership and pedestrian activity at these "hub" stations. A high level of accessibility and activity at the stations can make the nearby area more attractive for additional economic activity. Most of the

potential stations identified for further evaluation are located in heart of the downtown/central city area of California's major cities minimizing potential impacts on the environment and maximizing connectivity with other modes of transportation. These locations also would have the most potential to support infill development and TOD.

Increased density of development in and around HST stations provides a means to increase public benefits beyond the benefits of access to the HST system itself. Such benefits could include relief from traffic congestion, improved air quality, promotion of infill development and preservation of natural resources, increased stock of affordable housing, promotion of job opportunities, reduction in energy consumption, and improved cost-effectiveness of public infrastructure. The Authority and local government working together will need to determine which mechanisms best suit each community and could be implemented to enhance the benefits possible from potential HST station development.

Significant growth is expected in large areas of California with or without an HST system. The proposed HST system, however, would be consistent with and promote the State's adopted smart growth principles,⁴ and should be a catalyst for wider adoption of smart growth principles in communities near HST stations. It should encourage infill development, help to protect environmental and agricultural resources by encouraging more efficient land use, and encourage efficient and compact development, along with infrastructure that provides adequate transportation and other utilities and minimizes ongoing cost to taxpayers.

Economic Benefits

The HST System Alternative would generate economic benefits related to revenue generated by the system, economic growth generated by construction and operation of the system, benefits from reduced delays to air and auto travelers, reduced air pollution, reduced accidents and fatalities and economic advantages related to proximity to the HST system.

According to the Authority's Business Plan (June 2000), the market for intercity travel in California that the high-speed train system can serve is projected to grow by almost 40 percent over the next 20 years. By the year 2020, the HST system is forecast to carry at least 32 million intercity passengers and generate \$888 million in revenue (calculated in 1999 dollars). This revenue will more than cover operating costs, resulting in an annual surplus of nearly \$340 million, while using HST fares significantly lower than current airfares. Moreover, the benefit-cost analysis done as part of the Business Plan concluded that through the year 2050, direct benefits from HST would be more than twice the costs.

The Business Plan estimated that the construction of the HST system would generate the equivalent of almost 300,000 job-years of employment. In addition, the construction spending is estimated to generate in present value more than \$11 billion in personal income, almost \$28 billion in industrial output, and \$871 million in tax revenue. The industries in California that are expected to benefit most are construction (\$10.4 billion in total added output), services (\$6.6 billion in added output), and manufacturing (\$2.7 billion in added output). Also, the system

⁴ As expressed in the Wiggins Bill (AB857, 2003), and in government code 65041.1.

would generate thousands of permanent jobs through the ongoing operations of high-speed trains.

The Business Plan concluded that Californians who continue to travel by air and automobile will also benefit from the HST system. By diverting some passengers to high-speed trains, the system will reduce the otherwise expected delays in major airports and highways. Reductions in airport delay will, in turn, reduce aircraft operating costs. At California's nine largest airports, the present value of these benefits is estimated at over \$12 billion. Benefits to automobile users (both intercity and commuter) are estimated at over \$13.6 billion.

Although the HST System Alternative would induce slightly more economic growth than the No Project or Modal Alternative, the HST System Alternative is forecasted to result in denser development, which would accommodate more population and employment on less land. The HST Alternative would result in a slight decrease in urban area growth and a statewide increase of 450,000 jobs over the No Project Alternative and 200,000 jobs over the Modal Alternative between 2002 and 2035.

Experiences in other countries have shown that an HST system can provide a location advantage to those areas that are in proximity to an HST station because an HST system would improve accessibility to labor and customer markets, thereby potentially improving the competitiveness of the state's industries and the overall economy. Businesses that locate in proximity to an HST station could operate more efficiently than businesses that locate elsewhere. This competitive advantage may be quite pronounced in high-wage employment sectors that are frequently in high demand in many communities.

Social Benefits

The HST System Alternative would provide a new intercity, interregional, and regional passenger mode that would improve connectivity and accessibility to other existing transit modes and airports compared to the other alternatives. HST would improve the travel options available in the Central Valley and other areas of the state with limited bus, rail, and air service for intercity trips and the passenger cost for travel via the HST service would be lower than for travel by automobile or air for the same intercity markets.

According to the Business Plan, an HST system would provide an opportunity for some people who would not otherwise make trips to do so, e.g., where travel options are currently limited. In addition, high-speed rail is a mode of transportation that can enhance and strengthen urban centers. In combination with appropriate local land use policies, the increased accessibility afforded by the high-speed service could encourage more intensive development and may lead to higher property values around stations.

Conclusion

Although the HST System Alternative would have potentially significant environmental impacts on resources, including noise, biology, wetlands, and farmlands, the HST System Alternative would have distinct benefits in travel conditions, land use planning, energy savings, and reduced air emissions. In addition, although the HST System Alternative would induce slightly more

economic growth, the HST System Alternative is forecasted to result in denser development, which would accommodate more population and employment on less land. The HST System Alternative would result in a slight decrease in urban area growth and a statewide increase of 450,000 jobs. The HST System Alternative is identified as environmentally preferable under NEPA as well as environmentally superior under CEQA.

The Authority has found that the transportation, environmental, land use, economic, and social benefits of the HST project outweigh the significant and unavoidable environmental impacts. This statement of overriding considerations is based on the Authority Board's review of the Final Program EIR/EIS and other information in the administrative record.

ATTACHMENT B

9 STATEMENT OF OVERRIDING CONSIDERATIONS - *revised*

The Partially Revised Final Program EIR and the CEQA Findings of Fact conclude that implementing the Preferred Pacheco Pass Network Alternative will result in significant impacts to the environment that cannot be avoided or substantially lessened with the application of feasible mitigation strategies or feasible alternatives. This Statement of Overriding Considerations is therefore necessary to comply with CEQA (Pub. Resources Code, § 21081) and the State CEQA Guidelines (§ 15093). The significant and unavoidable impacts and the benefits related to implementing the HST system in the Bay Area to Central Valley study region via the Preferred Pacheco Pass Network Alternative are described below. The Authority Board has carefully weighed these impacts and benefits of the Preferred Pacheco Pass Network Alternative. As described below, the Authority finds that the benefits of the Preferred Pacheco Pass Network Alternative outweigh the significant and unavoidable environmental impacts.

This Statement of Overriding Considerations must be understood in its programmatic context. The level of analysis provided in the Partially Revised Final Program EIR is less detailed than that typically provided in a project-level EIR, such as for approval of a development project at a particular location. Because a program EIR necessarily provides less detailed analysis and less detail concerning mitigation, it is not always possible to conclude with certainty that the adoption of the identified mitigation strategies at the program level will reduce adverse impacts to a less-than-significant level. In some instances, although the Authority is confident that its range of mitigation will avoid or substantially lessen adverse impacts, it cannot conclude with certainty that this will be the case until project-level data is available. This is particularly true for certain terrestrial impacts, where the precise scope of the impact and the adequacy of the adopted mitigation strategies cannot be determined until the Authority selects a specific alignment. For these areas of uncertainty, the Authority is choosing to override the adverse impacts even though at the project level it may conclude that an impact can in fact be mitigated to a less-than-significant level.

9.1 General Findings on Significant and Unavoidable Impacts Associated with the Preferred Pacheco Pass Network Alternative

Based on the Partially Revised Final Program EIR and the CEQA Findings of Fact contained herein, as well as the evidentiary materials supporting these documents, the Authority finds that implementing the Preferred Pacheco Pass Network Alternative could result in the following list of significant and unavoidable impacts to the environment:

Traffic, Circulation, and Transit

- Increased station area traffic (including impacts on San Jose station related to phased implementation)
- Increased traffic related to Monterey Highway narrowing
- Increased traffic related to potential lane closures on the San Francisco Peninsula
- Impacts to connecting commuter rail services

Noise and Vibration

- Exposure to ground-borne vibration from operations and construction, including potential for movement of freight to outside tracks on San Francisco Peninsula

Land Use Impacts and Station Area Development

- Long-term land use compatibility impacts with HST operations
- Impacts to neighborhoods during construction

Agricultural Lands

- Severance of Prime, Statewide Important, and Unique Farmlands, and Farmlands of Local Importance, due to project uses

Aesthetics and Visual Resources

- Long-term aesthetic impacts from introduction of a new visual feature
- Short-term visual quality impacts due to construction

Cultural and Paleontological Resources

- Impacts to archaeological resources and traditional cultural properties
- Impacts to historic properties/resources
- Impacts to paleontological resources

Biological Resources and Wetlands

- Impacts to sensitive habitats and sensitive vegetation communities
- Impacts to wildlife movement corridors
- Impacts to non-wetland jurisdictional waters
- Impacts to wetlands
- Impacts to marine and anadromous fisheries
- Impacts to special status species
- Impacts to protected habitats and conservation areas

Public Parks and Recreation

- Impacts to parks and recreation resources

Cumulative Impacts

- Cumulative traffic impacts
- Cumulative vibration impacts
- Cumulative land use compatibility impacts
- Cumulative impacts associated with agricultural land severance
- Cumulative aesthetic impacts
- Cumulative impacts to cultural resources
- Cumulative impacts to biological resources
- Cumulative impacts to parks and recreation

The Authority further finds that while the mitigation strategies it adopts as part of the CEQA Findings of Fact are very likely to avoid or substantially lessen many of the foregoing environmental impacts, and mitigation adopted to address one subject area may result in beneficial effects in other subject areas, it cannot find with certainty that these impacts will be fully mitigated absent the more detailed information that will be available at the project-level. For this reason, and out of an abundance of caution, the Authority chooses to make a statement of overriding considerations that encompasses all of the foregoing at the program level. It is the Authority's intent that the mitigation strategies will be refined and applied at the project level, and augmented to the degree necessary, to ensure that impacts are fully mitigated to the extent feasible.

9.2 Overriding Considerations for the HST System and for the Preferred Pacheco Pass Network Alternative

There are numerous benefits of the HST system as a whole, and of the Preferred Pacheco Pass Network Alternative, which outweigh the significant and unavoidable adverse effects of implementing the Preferred Pacheco Pass Network Alternative in the Bay Area to Central Valley study region. These benefits are in the areas of transportation, the environment, land-use planning, economics, and social considerations. Many of these benefits are documented in the 2012 Partially Revised Final Program EIR, which considered a scenario in which the entire 800-mile high-speed train system would be operating and generating benefits in 2030. The following identified benefits include information consistent with the Program EIR to represent the high end of the range of benefits. Additional information on the lower end of the range of benefits anticipated in 2030 is also provided, based on the scenarios and information in the Revised 2012 Business Plan. This information illustrates that while benefits would be lower in 2030 under the Revised 2012 Business Plan scenarios, benefits remain and would still accrue over time for many decades into the future.

9.2.1 Benefits of the Statewide High-Speed Train System

Transportation Benefits

The capacity of California's intercity transportation system is insufficient to meet existing and future demand, and the current and projected future congestion of the system will continue to result in deteriorating transportation conditions, reduced reliability, and increased travel times. The system has not kept pace with the tremendous increase in population, economic activity, and tourism in California. The interstate highway system, commercial airports, and conventional passenger rail system serving the intercity travel market are operating at or near capacity and will require large public investments for maintenance and expansion to meet existing demand and future growth over the next 20 years and beyond. Moreover, the ability to expand major highways and key airports is uncertain; some needed expansions may be impractical or may be constrained by physical, political, or other factors.

The HST system will provide a solution to many of the State's existing and looming transportation problems. It will meet the State's need for a safe and reliable mode of travel linking the major metropolitan areas of the state and deliver predictable, consistent travel times sustainable over time. The HST system will provide quick, competitive travel times between California's major intercity markets. The passenger cost for travel via the HST service will be lower than for travel by automobile or air for the same intercity markets.

By providing a new intercity, interregional, and regional passenger mode, the HST system will improve connectivity and accessibility to other existing transit modes and airports. Travel options available in the Central Valley and other areas of the state with limited bus, rail, and air service for intercity trips will be improved. The HST system also provides system redundancy in cases of extreme events such as adverse weather or petroleum shortages (HST trains are powered by electricity which can be generated from non-petroleum or petroleum-fueled sources; automobiles and airplanes currently require petroleum). The HST system will provide a predominantly separate transportation system that will be less susceptible to many factors influencing reliability, such as capacity constraints, congestion, and incidents that disrupt service.

The HST system will add capacity to the state's transportation infrastructure and reduce traffic on certain intercity highways and around airports to the extent that intercity trips are diverted to the HST system. Diversions from the automobile to HST could lead to a projected 2.3% statewide reduction in vehicles miles traveled on the highway system, or 9.74 billion vehicle miles traveled annually. An estimate of automobile VMT reductions for the Phase I Blended System identified in the Revised 2012 Business Plan yielded reductions in the range of 3-4 billion fewer vehicle miles traveled annually in 2030. Though benefits would accrue more slowly under the Revised 2012 Business Plan

scenarios than under the Program EIR assumptions, there are still substantial benefits in early years associated with VMT reductions under this lower range of benefits, and the benefits would continue to accrue for decades. It also will eliminate delays at existing at-grade crossings where the HST system will provide grade separation. The HST system also will decrease injuries and fatalities due to diversion of trips from highways, will improve connectivity, and will add a variety of connections to existing modes, additional frequencies, and greater flexibility.

Benefits to the Environment

In addition to reducing highway congestion, the HST system as a whole will provide substantial improvements in air quality, transportation energy efficiency, and noise. The HST system will decrease air pollutants statewide and in all air basins analyzed by reducing pollution generated by automobile combustion engines, as a result of decreased vehicle miles traveled by automobiles and decreased automobile congestion. Compared to the No Project scenario, the HST system will result in a reduction of 5.8 million barrels of oil and 3.4 million metric tons (6.8 billion pounds) of CO₂ emissions annually by 2030, consistent with helping the State's meet the CO₂ emissions reductions target in Assembly Bill 32. An estimate of CO₂ emissions reductions for the Phase I Blended System identified in the Revised 2012 Business Plan yielded emissions reductions in the range of 0.8 to 1.4 million metric tons annually in the year 2030. Though benefits would accrue more slowly under the Revised 2012 Business Plan scenarios than under the Program EIR scenario, there are still substantial benefits in early years associated with greenhouse gas emissions reductions, and the benefits will continue to accrue and build for decades. The HST system will also increase energy efficiency in transportation use because HST uses less energy to move passengers than either airplanes or automobiles: the HST system will use about one-third the energy needed by an airplane, about one-half the energy needed by an automobile for an intercity automobile trip, and one-fifth the energy needed by an automobile for a commuter automobile trip. In addition, noise reduction will occur in locations where grade separations eliminate horn and crossing gate noise at existing grade crossings.

The statewide HST system has minimized environmental impacts by utilizing existing transportation corridors. The preferred alignment alternatives and station location options for the system as a whole have been crafted to avoid and/or minimize the potential impacts to cultural, park, recreational and wildlife refuges to the greatest extent practicable. In this way, the HST system meets the purpose and need and project objectives for improving the State's transportation options, while doing so in an environmentally sensitive way.

Land Use Planning Benefits

The HST system will be highly compatible with local, regional, and state plans and policies that support rail systems and TOD and will offer opportunities for increased land use efficiency (i.e., higher density development and reduced rate of farmland loss). The HST system will promote transit-oriented, higher-density development around transit nodes as the key to stimulate in-fill development that makes more efficient use of land and resources and can better sustain population growth. The increased density of development in and around HST stations yields the additional public benefit of making public infrastructure improvements more cost-effective. Additionally, the HST system is expected to be a catalyst for wider adoption of smart growth principles in communities near HST stations.

The HST system will also meet the need for improved inter-modal connectivity with existing local and commuter transit systems. HST stations in California will be multi-modal transportation hubs. All the selected high-speed rail station locations will provide linkage with local and regional transit, airports, and highways. In particular, convenient links to other rail services (heavy rail, commuter rail, light rail, and conventional intercity) will promote TOD at stations by increasing ridership and pedestrian activity at these "hub" stations. A high level of accessibility and activity at the stations can make the nearby area more attractive for additional economic activity. Most of the potential stations identified for further evaluation at the project level are located in heart of the downtown/central city area of

California's major cities, minimizing potential impacts on the environment and maximizing connectivity with other modes of transportation.

Economic Benefits

The HST system will generate economic benefits related to revenue generated by the system, economic growth and jobs generated by construction and operation of the system, benefits from reduced delays to air and auto travelers, and economic advantages related to proximity to the HST system.

As noted in Chapter 1 of the 2008 Final Program EIR, the market for intercity travel in California is projected to grow substantially over the next 20 years. By 2030, the HST system is forecast to carry up to approximately 100 million intercity passengers and is expected to generate revenues that would substantially exceed operations and maintenance costs.

~~Construction of the HST system will generate the equivalent of almost 160,000 construction-related jobs statewide. Operations and maintenance of the HST system would generate approximately 450,000 permanent jobs statewide. The Revised 2012 Business Plan estimates that building Phase 1 of the high-speed train system would generate between 990,000 and 1.25 million job-years of employment, approximately 33% of which are direct construction jobs and the remaining jobs resulting from the multiplier effect of the project. Operations and maintenance jobs for Phase 1 of the high-speed train system range from 2,900 to 3,500.~~ In addition, the HST system would improve the economic productivity of workers engaging in intercity travel by providing an option to avoid the delays and unpredictability associated with air and highway travel. These economic benefits are in marked contrast to the cost of expanding airports and highways, which would be two to three times the cost of the HST system to meet the demand for 2030, even assuming this type of expansion is even feasible.

Finally, experiences in other countries have shown that an HST system can provide a location advantage to those areas in proximity to an HST station because an HST system would improve accessibility to labor and customer markets, potentially improving the competitiveness of the state's industries and the overall economy. Businesses that locate in proximity to an HST station could operate more efficiently than businesses that locate elsewhere. This competitive advantage may be quite pronounced in high-wage employment sectors that are frequently in high demand in many communities.

Social Benefits

The HST system would provide a new intercity, interregional, and regional passenger mode that would improve connectivity and accessibility to other existing transit modes and airports. The HST system would improve the travel options available in the Central Valley and other areas of the state with limited bus, rail, and air service for intercity trips and the passenger cost for travel via the HST system would be lower than for travel by automobile or air for the same intercity markets.

The HST system would provide an opportunity for some people who would not otherwise make trips to do so, e.g., where travel options are currently limited. In addition, HST is a mode of transportation that can enhance and strengthen urban centers. In combination with appropriate local land use policies, the increased accessibility afforded by the high-speed service could encourage more intensive development and may lead to higher property values around stations.

9.2.2 Benefits of the Preferred Pacheco Pass Network Alternative in the Bay Area to Central Valley Region

The benefits of the HST system as a whole are also benefits of the Preferred Pacheco Pass Network Alternative in the Bay Area to Central Valley study region. The Preferred Pacheco Pass Network Alternative also involves some benefits unique to the Bay Area to Central Valley study region that further

support the Authority's conclusion that the project's benefits outweigh its significant and unavoidable environmental impacts.

- The Preferred Pacheco Pass Network Alternative best serves the connection between northern and southern California with the greatest potential frequency and capacity, superior connectivity between the South Bay and Southern California, and fewer potential intermediate stops. Of the network alternatives examined, it is therefore best able to meet the purpose and need of the statewide HST system.
- The Preferred Pacheco Pass Network Alternative would result in a reduction in vehicle miles traveled (annual) of about 1.75%, or 716 million VMT, in the Bay Area (Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara Counties) and 8.0%, or 3.69 billion VMT, in the Central Valley (San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kern and Kings Counties), creating improvements in highway congestion and reductions in air pollutant emissions.
- The Preferred Pacheco Pass Network Alternative is the network alternative could enable the early implementation of the HST/Caltrain section between San Francisco, San Jose, and Gilroy.
- The Preferred Pacheco Pass Network Alternative achieves the project purpose and objectives while minimizing the public safety concerns and technological challenges associated with known faults and other seismic hazards.
- The Preferred Pacheco Pass Network Alternative achieves the project purpose and objectives while minimizing environmental impacts and avoiding impacts on the San Francisco Bay.
- The Preferred Pacheco Pass Network Alternative has the advantage of fewer stops through the high-speed trunk of the system between San Francisco or San Jose and Southern California, thereby minimizing the potential for urban sprawl and resulting in fewer community impacts than other network alternatives that were studied.
- The U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency have concurred that the Preferred Pacheco Pass Network Alternative would most likely contain the least environmentally damaging practicable alternative (LEDPA). For this reason, the Preferred Pacheco Pass Network Alternative is the network alternative in the Bay Area to Central Valley study region that will have the highest likelihood of being efficiently planned, reviewed, and constructed.

9.3 Conclusion

Implementing the HST system in the Bay Area to Central Valley study region will result in significant environmental impacts, regardless of which network alternative is selected. The decision of how to implement the HST system in the Bay Area to Central Valley study region therefore involves a balancing of different types and degrees of environmental impacts in different locations. The Preferred Pacheco Pass Network Alternative will contribute to achieving the distinct benefits of the HST system as a whole, including improved transportation and reduced congestion, improved air quality, energy savings, and greater opportunities for smart-growth land use planning. At the same time, the Preferred Pacheco Pass Network Alternative minimizes adverse impacts on the environment and qualifies as the environmentally preferable alternative. The Authority therefore finds that the transportation, environmental, land use, economic, and social benefits of the Preferred Pacheco Pass Network Alternative outweigh the adverse environmental impacts that will remain after adoption and application of all mitigation strategies listed in this document.

ATTACHMENT C

latimes.com/news/local/la-me-california-growth-20120425,0,4502546.story

latimes.com

California's population growth to slow in coming decades

The state will benefit from the slower but still-healthy growth rate of about 1% annually, a USC report says. The decline will mainly stem from a sharp drop in immigration to California.

By Rebecca Trounson, Los Angeles Times

April 25, 2012

California's population will grow more slowly in the next few decades than it has in the past advertisement — and that is good for the state's still-struggling economy, according to a new USC report.

The study projects that the state's population, now 37.3 million, will continue to increase at a healthy clip — about 1% annually — for years to come. But at least through 2050, we are unlikely to see the boom rates of recent decades, especially the 1980s.

"This is more manageable growth and that's good news for California," said Dowell Myers, a USC demography and urban planning professor who co-wrote the report with colleague John Pitkin. "We're returning to a more normal rate of growth."

The cooling pace means the state, city and county governments and other entities will have more time to prepare for a bigger population than they did in years past, allowing for more effective planning, Myers and other experts said. That could ensure that new roads and parks, for example, are put in areas where they are most needed and where growth is likely to be sustained, they said.

The researchers said the slowdown will mainly stem from a sharp drop in immigration to California, part of a nationwide trend detailed in other recent studies.

Although the slower pace of growth may be a net positive for California, it will require revisions to an array of public and private plans, including for schools, water projects, transportation, hospitals, highways and other infrastructure.

"Those of us who've been here for a while think of California as a place that's grow, grow, grow — and go, go, go — but this shows that we're not that anymore," Hans Johnson, a demographer with the Public Policy Institute of California, said of the USC study released Tuesday. "We're now more typical of the rest of the nation."

Johnson noted that the brakes on California's growth were evident in the 2010 census, after which, for the first time, the state failed to gain a new seat in Congress.

The report, the third in a series of projections by USC's Population Dynamics Research Group, predicts that California's population will grow at less than 10% per decade for the next several decades.

In the 1980s, the state's population surged nearly 26%, adding about 6 million residents. The increases

were fueled primarily by the booming aerospace industry and economic problems elsewhere in the country, which made the Golden State a powerful magnet for job seekers.

In the 1990s, the state's growth rate fell to 14% but remained strong. It slowed further, to 10%, in the decade just ended, the USC report shows. Myers said the continuing falloff from 2000 to 2010 may have been partly due to the recession that began in 2008. Growth was slow even in 2005, when the economy was still strong.

The new predictions differ significantly from California's official population projections. Those show that the state's population by 2020 would reach 44 million, a level USC's researchers now say will not be attained until 2028.

Bill Schooling, chief of demographics research for the state department of finance, praised the USC report and said his staff, too, is working on a new set of population figures, which he says will be lower than its previous estimates. Schooling's office is racing to produce the new estimates ahead of its regularly scheduled report because demographic changes are so profound that state agencies urgently need fresh data to update their planning.

The USC analysis also predicts that as California's growth slows, its population will change in various ways. The state in coming decades is expected to have more senior citizens, fewer children and more young adults. The state's immigrant population will be more settled, with a larger share that has lived in the U.S. at least 20 years.

Each change has implications, the experts said.

The average age of the state's population, as in the nation, is rising, partly driven by the aging of the huge baby boom generation, whose oldest members were born in 1946 and are of retirement age. The USC researchers say the number of Californians of retirement age compared with people of prime working age (25- to 64-year-olds) will rise to 36 seniors per 100 working-age adults in 2030. It stood at 22 to 100 in 2010.

As the boomers age, they will require more state services and that will create budget challenges, Johnson noted. Also significant is the loss of their workforce skills to the state, he said. Baby boomers are California's most highly educated generation, he said, with a greater share having graduated from college than younger or older age groups.

A smaller population of children in years to come means savings for the state, mainly in education costs. It could lead to higher per capita spending for the education of those who remain, Johnson said.

The rising share of young adults age 25 to 34 in the next 20 years is good news for the state, which experienced negative growth for that age group from 1990 to 2010, Myers said. Young adults are crucial for the state's economic growth. They are most likely to become new workers, rent their first apartment, buy a home, have children and be first-time voters, he said.

California's increasingly settled immigrant population means that its members are more likely than before to have learned English, have children born in the U.S. and remain in the state, Johnson said.

"It's important for us as a state to make sure immigrants and their families are integrated into our society and are successful, so it's really important to look to their education," he said. "The biggest challenge California faces long term is to ensure that enough of our residents go to college, and to make sure they graduate."

ATTACHMENT D



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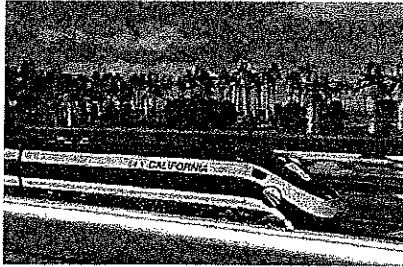
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MONEY & POLITICS | DAILY REPORT | HIGH-SPEED RAIL

Cost of high-speed rail project balloons

August 29, 2011 | Tim Sheehan



California High-Speed Rail Authority

For two years, the California High-Speed Rail Authority said it could build 520 miles of high-speed train tracks between San Francisco and Los Angeles for about \$43 billion.

But that figure — long derided as unrealistic by critics — went off the rails this month when the authority released detailed environmental reports for its proposed Merced-Fresno [PDF] and Fresno-Bakersfield [PDF] sections, the first two segments the agency wants to start building next year.

The authority's most optimistic estimates for the San Joaquin Valley sections alone total about \$10 billion; route choices could run the price to \$13.9 billion.

That's a far cry from the 2009 estimate of \$8.1 billion.

If projected costs can rise by as much as 71 percent in the Valley — a relatively flat, straightforward stretch — what will happen when tracks must be built through mountains and across cities in the Bay Area or Southern California?

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Reports detail high-speed rail's San Joaquin Valley impact

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If costs escalate statewide as much as in the Valley, the price to build the system from San Francisco to Anaheim could leap from the 2009 estimate of \$43 billion to as much as \$87.3 billion, even before buying any trains.

Some critics are saying, "I told you so," and others worry about even more cost increases in the Valley and statewide before a decade of construction begins in late 2012, as planned.

"It is about time that more realistic numbers are being used," said Elizabeth Alexis, co-founder of Californians Advocating Responsible Rail Design, a group that has long doubted the authority's estimates.

Roelof van Ark, the rail authority's CEO, acknowledged last week that the earlier estimates, set forth in a 2009 business plan [PDF] to the Legislature, were "a little bit optimistic."

Construction plans have changed in the Valley between 2009 and now, van Ark said.

He said that an updated plan due to the Legislature in October will reflect the higher costs for the Valley — and statewide.

"What you're seeing in the Central Valley, you are going to see in the other parts of the state as well," van Ark said. "Quite a few of the components (that add to the cost in the Valley) will definitely carry into other parts of the state. However, some of them could be even larger."

Why so expensive?

The higher estimates in the draft environmental impact reports for the Valley segments are the result of engineers refining the route options and gaining a better understanding of construction challenges, van Ark said.

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"We know more now," said van Ark, who was hired by the authority months after the 2009 plan was prepared. "When you start designing systems like this, you look at the alignment, the cities, the rural areas, and you make assumptions. ... (But) you don't have the detail to consider what real costs are going to come about."

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<p>With that detail in hand, the authority has identified about \$5.8 billion in new costs, including:</p> <ul style="list-style-type: none"> Health & Welfare About \$3 billion more to build about 36 miles of elevated tracks over the cities of Madera, Chowchilla and Corcoran to avoid closing streets K-12 Corcoran to avoid closing streets Higher Ed Help Us Report Monterey Bay Waterways, streets, highways and bridges along the route. Environmental Public Safety <ul style="list-style-type: none"> About \$685 million more for retaining walls to raise the tracks above floodplains. About \$430 million more to purchase right of way along the route and to relocate displaced homes and businesses. About \$142 million more to realign a 2-mile portion of Highway 99 in west-central Fresno to make room for the high-speed tracks. 	<p>Our Content</p> <ul style="list-style-type: none"> Daily Report React & Act Help Us Report Rate Center Archive 	<p>Who We Are</p> <ul style="list-style-type: none"> Our Team Our Funders Press Room Relief 	<p>Partner With Us</p> <ul style="list-style-type: none"> California Watch Media Network Use Our Content / Logo Employment / Internships Donate Advertise

Van Ark said that since the first estimate, prices also have gone up for materials, such as steel, needed to build the system.

Between Merced and Fresno, the cheapest route option – now estimated at about \$3.8 billion – follows the Union Pacific freight railroad and Highway 99 between Merced and Chowchilla. It loops west around Chowchilla, then heads east to follow the Burlington Northern Santa Fe railroad around Madera to the east. The line then crosses the countryside to return to the UP tracks and Highway 99 by the time it reaches the San Joaquin River, and remains along the UP tracks through downtown Fresno.

The most expensive option is one that follows the UP tracks and Highway 99 all the way from downtown Merced through Chowchilla and Madera to downtown Fresno. At an estimated cost of \$6.7 billion, it includes the stretch of elevated tracks from north of Chowchilla to south of Madera.

Between Fresno and Bakersfield, the route roughly follows the Burlington Northern Santa Fe tracks, except for a stretch that crosses the Kings County countryside east of Hanford.

The most expensive variation, at about \$7.2 billion, would pass through the cities of Corcoran, Wasco and Shafter and the historic community of Allensworth, with elevated tracks through Corcoran.

The lowest estimated price, about \$6.2 billion, is for a route with bypasses around those towns.

The new cost projections in the Valley are about in line with what Alexis' CARRD group predicted, based on figures in the authority's application for federal stimulus funds this year.

"We had already built in the escalation to our cost figures so our current estimate is consistent with newly released information," Alexis said. "The budget numbers in the federal applications revealed the much higher price tag to those of us keeping close tabs on the project."

"Hopefully," she added, "all the cost surprises on this (Valley) segment going forward are good ones."

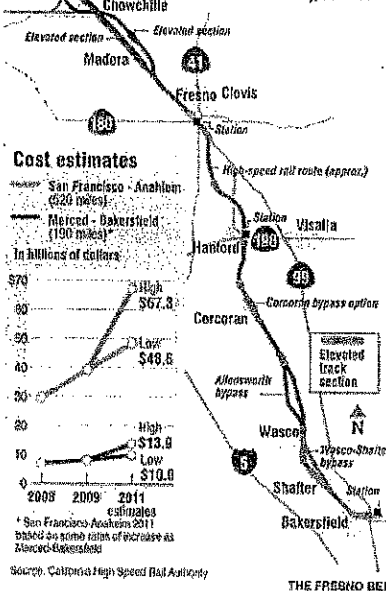
Increases inevitable?

Research shows that for decades, cost overruns are the rule rather than the exception for big transportation projects in general, and for big rail projects in particular. And California's proposed high-speed train system is a biggie.

"Even in the best of times, large infrastructure investments have a dismal performance record in terms of cost overruns, delays, and benefit shortfalls," Oxford University program-management professor Bent Flyvbjerg wrote in a 2009 research article [PDF] in the Oxford Review of Economic Policy.

The rising price of high-speed rail

The latest cost estimates to build high-speed train tracks through the San Joaquin Valley range from a low of \$10 billion to nearly \$14 billion. The most expensive routes under consideration include elevated tracks over Chowchilla, Madera and Corcoran; the least expensive alternatives would skirt those and other small cities with bypass lines.



Final bullet train report out for Merced-Fresno


Public disclosure is next frontier in campaign for high-speed rail, "Winner" Society of Professional Journalists, GSA sought Solyndra contracts despite White House objections

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In 2009, the cost for San Francisco-to-Anaheim was estimated at about \$39.3 billion, or just under \$43 billion by the time trains were purchased to run on the system.

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Lynn Schenk, a former congresswoman from San Diego and a member of the rail authority's board, said the 2009 plan was created in "an atmosphere of wishes, hopes and faith, and ... was more of a sales and marketing piece" than a reliable prediction of costs.

Schenk said the October business plan will be "just about our last chance to rebuild confidence in this project, and us, that we can get this done" in the face of growing statewide concern over the rail project.

Van Ark also understands the implications of the new business plan, which will detail not only the costs for the statewide system, but also how the authority expects to pay for it.

And, he added, it will paint a much more realistic picture than the 2009 plan.

"We – I say we even though I wasn't around – we were a little bit optimistic in those days," van Ark said.

The authority's new estimates are priced to include all types of route options, "and these have all been cross-checked by a second group of costing engineers," he added. "I want to make sure I'm right when I go out and talk about these things."

Valley battleground

California has about \$6.3 billion available to start construction, a combination of federal stimulus funds and money from Proposition 1A, a \$9 billion bond measure approved by California voters in 2008. Planners decided the best place to use that first chunk of money is the Valley.

"We will build as many miles as we can out of that \$6 billion," van Ark said.

The lackluster Valley and national economies could actually favor the authority when contractors bid on the project next year.

"I'm hopeful that as the economy is down now, we will have some very competitive bidders when we go into the market next year," van Ark said.

Still, the jump in expected costs for the Valley segments have prompted renewed criticism of the project, already battered by the Legislative Analyst, the state Inspector General and others.

Concerns range from the authority's ability to manage the project, its reliance on an army of contractors and consultants, a rush to meet federal deadlines for \$3.3 billion in stimulus money, and the choice to begin construction in the Valley instead of one of the state's urban centers.

"We really need to re-examine what we're spending and what we're going to get for it," said state Sen. Alan Lowenthal, D-Long Beach. Lowenthal says he supports the concept of high-speed rail but has been fiercely critical of the rail authority, sponsoring legislation that would shift control of the project to the state's transportation agency.

Another legislator wants to ask voters to repeal Prop. 1A. "This thing is well on its way to massive cost overruns," said state Sen. Doug La Malfa, R-Willows. "The costs are starting to escalate and we need to take a timeout."

The Legislature and other state officials must approve the October business plan and its funding components before Prop. 1A money can be used.

The rising price tag has not deterred Gov. Jerry Brown from expressing continued support for the project. Brown told The Fresno Bee's editorial board this month that now is not the time to pull the plug on the high-speed electric trains.

High-speed rail "could reshape the Valley," he said. "But it is expensive. ... The numbers look big." Brown said those costs, however, pale in comparison to the state's economic productivity over the expected life of the trains. California, he said, needs to "look to the future instead of the past."

"Important countries are investing in high-speed rail," he said, citing examples in Europe and Asia. "I'm doing my best to keep this train running."

Authority officials are aware of the stakes for the October business plan and its cost projections.

"I have growing confidence that this is the document we need, with all of the warts, with all of the risks," Schenk said last week. "It's been truth-tested with some of our major critics ... people who have legitimate concerns and questions, and we're able to address those, or say that we can't."

Van Ark said the new cost projections have to be on the money and still account for inflation.

"I know some people are pointing fingers at us and saying, 'Every year the cost of this is going to go up by leaps and bounds,' " he said last week. "That's not the intent of a good engineering estimate. An engineering estimate must be right. ... We've got to stabilize these costs now."

The Associated Press contributed to this report. The reporter can be reached at tsheehan@fresnobee.com or 559-441-6319. This story resulted from a partnership among California news organizations following the state's high-speed rail program: The Fresno Bee, The Sacramento Bee, California Watch, The Bakersfield Californian, The Orange County Register, the San Francisco Chronicle and The (Riverside) Press-Enterprise.

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Live



Davide Florez

California Treasurer Bill Lockyer, the California politician responsible for selling these CAHSR bonds, said on March 14, 2011 to an LA news reporter that no one is interested in buying CA HSR bonds because the CAHSR is more interested in issuing bad PR, rather than coming up with a sound business plan. Until there is a sound business plan, or even a half-baked one, then no one will invest in this stinker of a project. Interviewer asks: "so are investors saying we're interested, but it doesn't look like you guys [CAHSR Authority] know what you're doing" & Lockyer responds: "that's what they're saying"; Interviewer: "what do you think?" & Lockyer responds: "well, i think the same thing." Lockyer also says "we don't have a [business] plan that makes sense" and "i don't think the State of California can sell these bonds", and even though voters authorized the bonds, the bonds don't need to be sold and the project can be cancelled in 2011 or 2012 - see interview here:

http://www.nbctvlosangeles.com/on-air/as-seen-on/NewsConference___California_Treasurer_Bill_Lockyer_Part_3_Los_Angeles-117841823.html

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Davide Florez

Call California Governor Jerry Brown at (916) 445-2841 and California Treasurer Bill Lockyer at (916) 653-2995 to demand that they end the boondoggle now, and Lockyer not sell bonds for this project. Leave a message if you can't get through. If people keep calling, they'll start to understand that California requires spending on real priorities, like education, senior centers, parks, social services, water, bridges, roads, but not a useless train. Someone far smarter than me recently stated an undisputed fact about this project: "Since advocates of high-speed rail claim it is profitable and a wonderful investment for private investors, then by law every government official, manager and union worker involved in high-speed rail should place 100 percent of their personal investment and retirement portfolios into the project. I bet you won't get one government official, advocate or union worker to accept that condition."

Amen.

Davide Florez likes this.

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Davide Florez

Want to know who is the main, driving force behind this boondoggle? The entities that are driving Democratic politicians to keep supporting a project that will not pencil out, will require hundreds of billions to construct (due to mega project cost overruns) and require billions in yearly operating subsidies because no one but business travelers will be able to afford the high ticket prices - who are these entities behind HSR? Well, watch this video and public comment from the CA Senate Transportation Committee hearing on May 3, 2011 (where State Senator LaMalfa's state SB22 to defund the CAHSRA and project was being discussed). In the OPPOSITION public comment to this bill you can see who speaks against LaMalfa: 1. California Labor Federation (union); 2. State Operating Engineers (union); 3. State Buildings and Construction Trades Council (union); 4. California State Federation of Laborers (union); 5. State Laborer's Council (union); 6. Contractors/Vendors standing to make money off the project (i.e. Siemens/Parson's Brinkerhoff, etc.) The Unions support Democratic politicians, from Governor Brown, to Gaigiani, etc. There is also a revolving door between former public sector Democratic politicians then going "in house" with fat "non-public" employment contracts that aren't subject to a California Public Records Act Request (under Cal. Govt. Code) for review of those contract - so they need to make sure the boondoggle and BILLION DOLLAR CONTRACTS are still being awarded when they leave office - it's about the money, money, money - that's it: <http://www.youtube.com/user/derailhsr?blend=1&ob=5#p/u/38/sDEguilAF5w>

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**Davide Florez**

Call California Governor Jerry Brown at (916) 445-2841 and California Treasurer Bill Lockyer at (916) 653-2995 to demand that they end the boondoggle now, and Lockyer not sell bonds for this project.

The California High Speed Rail Authority and CEO Van Ark regularly ignore and refuse to consider public comment and input from members of communities through which HSR mandates they will bring their train - some examples:

<http://www.youtube.com/user/derailhsr#p/u/5/MinZKNr8WhBU> (Rose Olivera, 75 years old senior about to be evicted from home by CAHSRA)

<http://www.youtube.com/user/derailhsr#p/u/14/ZwXqjpVly1U>

<http://www.youtube.com/watch?v=UHOPlKH0kxo> (CAHSR ignoring CA farmers, destroying vital farmland) - <http://www.youtube.com/user/derailhsr#p/u/1/DOth7Xf7Tqo>

<http://www.youtube.com/user/derailhsr#p/u/0/JVlSWmW0tV0> (Senate votes to end CAHSRA 6/1/2011)

<http://www.youtube.com/user/derailhsr#p/u/6/ZwXqjpVly1U><http://www.youtube.com/user/derailhsr#p/u/f16/zmZAxjudOxo>

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**Davide Florez**

Call California Governor Jerry Brown at (916) 445-2841 and California Treasurer Bill Lockyer at (916) 653-2995 to demand that they end the boondoggle now, and Lockyer not sell bonds for this project.

Mother Jones – the ultra liberal, leftist, greenist, periodical in the World said on 6/11/2011 in an article titled "California's HSR Boondoggle – Now More Boondoggly" that the California High Speed boondoggle should be ended, now, for several reasons, mostly that construction costs have already ballooned, likely to exceed \$100,000,000,000.00 (\$100 billion) in 2011-year dollars. Mother Jones said: "Look, I'm sorry HSR lovers. I love me some HSR too, but this project is just a fantastic boondoggle. It didn't even make sense with the original cost estimates, and it's now plain that it's going to cost three or four times more than that. What's more, the ridership estimates are still fantasies and it won't be able to compete with air travel without large, permanent subsidies. This is just too much money to spend on something this dumb. It's the kind of thing that could set back HSR for decades. Sacramento needs to pull the plug on this, and they need to pull it now. We have way better uses for this dough." Article here: <http://motherjones.com/kevin-drum/2011/08/californ...>

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**Derek Gendvil**

Cost of high-speed rail project balloons <http://t.co/oLTODRs> via @CaliforniaWatch

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**95988**

Cost of high-speed rail project balloons <http://t.co/TEbj8S3> via <http://t.co/gf8t80>

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Cost of California's high-speed rail project balloons <http://t.co/zPPyCD7> via <http://t.co/gf8t80>

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**Lochner Utah**

California hsr cost takes dramatic turn upward from original \$43 billion estimate. <http://t.co/1qmY7ib>

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Cost of high-speed rail project balloons | California Watch <http://t.co/d8MbntS>

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**Maile Headrick**

Cost of high-speed rail project balloons <http://t.co/oVPTwn1> via @CaliforniaWatch

7 Months Ago from Twitter

**Will**

Cost of high-speed rail project balloons <http://t.co/tHWka5Z> via @CaliforniaWatch

7 Months Ago from Twitter

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Cost of California's highspeed rail project balloons | California ... <http://t.co/cM6QOpn>

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Visalia

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ATTACHMENT E



The 2012-13 Budget: Funding Requests for High-Speed Rail

MAC TAYLOR • LEGISLATIVE ANALYST • APRIL 17, 2012

SUMMARY

The California High-Speed Rail Authority (HSRA) is responsible for planning and constructing an intercity high-speed train that would link the state's major population centers. In April 2012, the HSRA released its most recent business plan that estimates the cost of constructing the first phase of the high-speed train project at \$68 billion. However, the HSRA only has secured about \$9 billion in voter approved bond funds and \$3.5 billion in federal funds. Thus, the availability of future funding to construct the system is highly uncertain. The revised business plan also makes significant changes from prior plans—such as proposing to integrate high-speed rail with other passenger rail systems, constructing the southern portion of the system first, assuming lower construction costs, and using “cap-and-trade” auction revenues if additional federal funds fail to materialize. The Governor's budget plan for 2012-13 requests \$5.9 billion—\$2.6 billion in state bond funds matched with \$3.3 billion in federal funds to begin construction of the high-speed rail line in the Central Valley. In addition, about \$800 million is requested to make improvements to existing passenger rail services and about \$250 million to complete preliminary design work and environmental reviews for various sections of the project.

We find that HSRA has not provided sufficient detail and justification to the Legislature regarding its plan to build a high-speed train system. Specifically, funding for the project remains highly speculative and important details have not been sorted out. We recommend the Legislature not approve the Governor's various budget proposals to provide additional funding for the project. However, we recommend that some minimal funding be provided to continue planning efforts that are currently underway. Alternatively, we recognize that the Legislature may choose to go forward with the project at this time. If so, we recommend the Legislature take a series of steps to increase the chance of the project being successfully completed.

BACKGROUND

The HSRA is responsible for planning and constructing an intercity high-speed train that is fully integrated with the state's existing mass transportation network. The 800-mile long high-speed train system would link the state's major population centers. The California High-Speed Rail Act of 1996 (Chapter 796, Statutes of 1996 [SB 1420, Kopp]), established HSRA as an independent authority consisting of a nine-member board appointed by the Legislature and Governor. In addition, the HSRA has a staff of approximately 30 state employees who oversee contracts for environmental review, preliminary engineering design, preliminary right-of-way acquisition tasks, and other activities such as legal counsel, communications, and contractor oversight.

In November 2008, voters approved Proposition 1A, which allows the state to sell up to \$9.95 billion in general obligation bonds to partially fund the development and construction of the high-speed rail system. Of that amount, \$9 billion is for the high-speed rail system while the remaining \$950 million is for existing passenger rail systems to improve their connectivity with the high-speed system. Proposition 1A further enacted certain statutory requirements to guide the design of the system and to help assure the voters that there would be accountability and oversight of the HSRA's use of bond funds.

In addition to the funds authorized in Proposition 1A, HSRA has been awarded approximately \$3.5 billion in federal funds for planning, engineering, and constructing up to 130 miles of dedicated and fully grade-separated high-speed rail line in the Central Valley. Specifically, these funds were provided through the federal High-Speed Intercity Passenger Rail Program, which is administered by the Federal Railroad Administration (FRA). This program was established by the 2008

Passenger Rail Investment and Improvement Act to award grants for eligible intercity high-speed rail passenger rail projects that contribute to building new or substantially improving existing passenger rail corridors. Initial funding for this program was made available in the 2009 federal American Recovery and Reinvestment Act. The federal budget for federal fiscal year 2009-10 appropriated additional funding to FRA for high-speed rail grantees. However, as we discuss in more detail below, permanent and ongoing federal funding for this program has not been identified at this time.

REVISED BUSINESS PLAN MAKES SIGNIFICANT CHANGES

Chapter 618, Statutes of 2009 (SB 783, Ashburn), requires HSRA to submit a business plan containing specified elements to the Legislature by January 2012 and every two years thereafter. On April 2, 2012, the HSRA released a revised draft business plan. This is the fourth draft plan that the authority has released for review and comment. As shown in Figure 1, the HSRA proposes to construct the entire 800-mile long statewide high-speed train system in two phases—Phase 1 “Blended” and Phase 2. Phase 1 Blended, which consists of different stages, attempts to integrate or blend high-speed rail operations with other passenger rail systems. (Please see the nearby box for a more detailed description of this blended approach being proposed by the HSRA.) The total cost for Phase 1 Blended (connecting the San Francisco Bay Area to the Los Angeles Basin) is estimated to be \$68.4 billion, which is significantly less than the \$98.5 billion cost estimated by the HSRA in its November 2011 draft business plan. Currently, the total cost for Phase 2, which would further expand the system to other regions, is unknown.

Train Would Go South First. The HSRA's previous business plan indicated that construction for the high-speed rail system would begin in

Figure 1
High-Speed Rail Construction

Phase/Stage	Description	Length in Miles ^a	Completion Year	Cost in Billions ^b
Phase 1 Blended				
Initial Operating Segment (IOS), first construction	Madera to Bakersfield	130	2017	\$6.0
Remainder of IOS	Merced to San Fernando Valley	170	2021	25.3
Bay to Basin	San Jose to San Fernando Valley	110	2026	19.9
Blended	San Francisco to Los Angeles	110	2028	17.2
Subtotals		520		\$68.4
Phase 2	Extend to other regions ^c	280	Unknown	Unknown
Total		800		

^a Length of construction segments are approximate.

^b Estimated dollar amounts are in the year of expenditure.

^c Other regions include East Bay, Sacramento, San Diego, Inland Empire, and Orange County.

the Central Valley. However, that plan did not indicate whether the train would subsequently be constructed towards Northern or Southern California. The latest business plan proposes to construct the southern portion of the system first. As shown in Figure 1, the first two stages of construction would be an Initial Operating Segment (IOS) that would run between Merced and the San Fernando Valley over the Tehachapi Mountains. The HSRA asserts that this corridor could support the operation of an unsubsidized passenger train service consistent with the design characteristics required by Proposition 1A. The

authority estimates that the IOS would cost a total of about \$31.3 billion to construct and be completed by 2021. The next construction stage of Phase 1 Blended (referred to as the "Bay to Basin") would extend the IOS to San Jose. The final stage of Phase 1 Blended would extend the system to the Transbay Terminal in San Francisco and to Union Station in Los Angeles (or to Anaheim). Figure 2 (see next page) illustrates the location of the various phases and stages of construction.

Investments in "Bookends" of System.

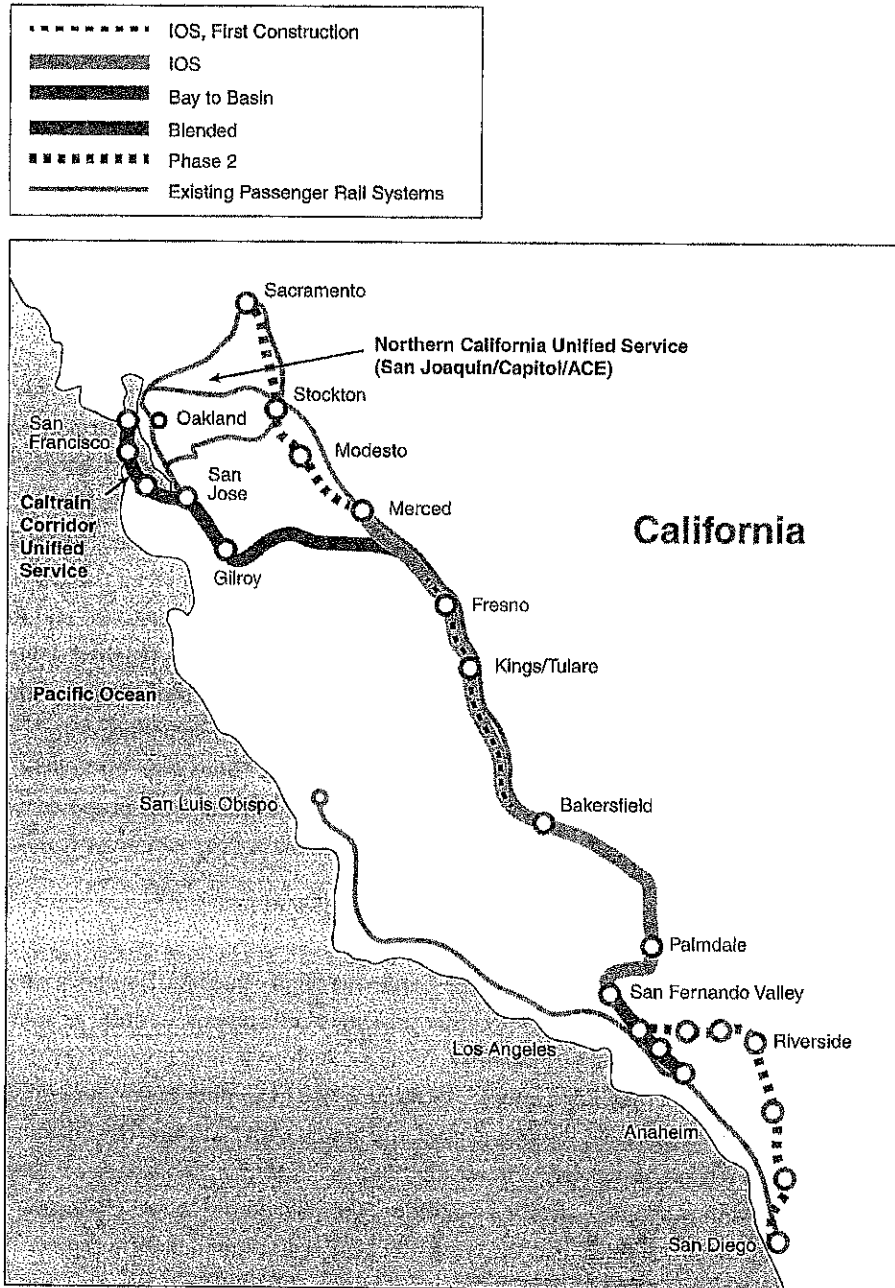
The 2012 revised business plan proposes to direct \$1.1 billion in Proposition 1A funds to

Proposed Blended Approach for High-Speed Rail

In general, the blended approach proposed by the California High-Speed Rail Authority involves the integration of high-speed rail operations with other passenger rail systems, in order to control costs, accelerate benefits, and address environmental concerns. Such an approach could include coordinated scheduling and ticketing. For example, on the San Jose to San Francisco corridor, the Phase 1 Blended system would share upgraded and electrified track with Caltrain. The Phase 1 Blended system may also rely on "enhanced" Metrolink (Southern California's passenger rail system) service in the Los Angeles to Anaheim corridor. In addition, the "Northern Unified Operating Service" would integrate the services (such as ticketing, trackage rights, and marketing) of a consortia of existing Northern California passenger rail operators. These include the state-supported Amtrak routes and the Altamont Commuter Express.

Figure 2

Map of Proposed California High-Speed Rail System



IOS = Initial Operating Segment and ACE = Altamont Commuter Express.

make investments in regional rail projects in the San Francisco Bay and the Los Angeles metropolitan areas—referred to as the bookends of the high-speed rail system. The HSRA has signed memoranda of understanding (MOUs) with regional transit agencies in these areas to coordinate efforts to obtain additional funding for projects that can immediately improve passenger rail service in those regions. Although the specific projects to be constructed under the terms of these agreements have not been fully identified, plans include electrifying the Caltrain corridor. Projects in Southern California will be smaller improvements around the region that improve safety or increase capacity and could include, for example, grade separations or double-tracking along the high-speed rail corridor.

Lower Estimated Construction Costs. The 2012 revised business plan includes detailed “low” and “high” cost estimates for Phase 1 Blended that range from \$68.4 billion to \$79.8 billion. These estimates are lower than those provided by the HSRA in the November 2011 business plan, which ranged from \$98.5 billion to \$117.6 billion, particularly in the latter stages of construction. Specifically, reductions in the out-year costs result from the use of blended operations, abandoning plans to build out to Anaheim (which is now under reconsideration), and revised assumptions on future interest rates. The estimated costs to construct the first stage of the project are relatively unchanged from the estimate identified in the November 2011 business plan.

Less Capacity and Reduced Ridership. According to HSRA, in addition to reducing costs, the changes identified in the revised 2012 business plan would result in a system with less capacity and reduced ridership. Specifically, the HSRA estimates that the projected ridership would be about 30 percent lower than estimated in the November 2011 draft business plan. For example, while the

November 2011 business plan projected between 29.6 million and 43.9 million one-way trips per year on Phase 1 in 2040, the latest plan assumes between 20.1 million and 32.6 million one-way trips per year.

Assumes Operating Subsidy Would Not Be Needed. The business plan continues to assume, as required by Proposition 1A, that the high-speed rail system will not need an operating subsidy. This is because most of the operations and maintenance costs are variable based on the number of trains and miles of track. Given the estimated lower ridership, the business plan assumes that fewer trains will be needed. Specifically, the HSRA estimates that revenues will exceed the cost to operate the train if there are more than 6 million fare-paying passengers per year. We note that to better ensure the soundness of its operating cost estimates, the HSRA is in the process of joining the Union Internationale des Chemins de fer (UIC) or the International Union of Railways. For example, the HSRA has requested UIC to conduct a study of high-speed train operating and maintenance costs, in order to improve its own planning efforts.

Use of Cap-and-Trade Revenues as Backstop. The revised business plan is similar to the last business plan in that it heavily relies on federal funding to complete construction of the system. As shown in Figure 3 (see next page), nearly \$42 billion, or over 61 percent of the funds needed to construct Phase 1 Blended, is anticipated to come in the form of grants from the federal government. The most significant change from prior business plans is that if the federal funds fail to materialize, revenue from the state’s quarterly cap-and-trade auctions would be used as a “backstop.” As we discuss in the nearby box (see next page), the cap-and-trade auctions are part of the state’s overall plan to reduce greenhouse gas (GHG) emissions. The remaining funds to complete the project consist of \$8.2 billion in Proposition 1A funds, \$13.1 billion in private

Figure 3
Sources of Funding for Phase 1 Blended

(Dollars in Billions)

Source of Funds	Amount	Percent of Total
Proposition 1A bonds	\$8.2	12.0%
Secured federal grants	3.3	4.8
Unsecured federal grants and/or cap-and-trade auction revenue	38.6	56.4
Private capital	13.1	19.2
Other funds (local funds, operations, development)	5.2	7.6
Totals	\$68.4	100.0%

capital, and \$5.2 billion from other funds (such as local funds and operating surpluses).

GOVERNOR'S BUDGET REQUESTS FUNDING TO CONTINUE PROJECT

Consistent with the HSRA's revised business plan, the Governor's budget plan for 2012-13 requests additional funding to continue the high-speed rail project. Specifically, the Governor requests in an April Finance Letter:

- \$5.9 billion (\$2.6 billion in Proposition 1A funds matched with \$3.3 billion in federal funds) to acquire right-of-way (\$937 million) and for construction
- \$812 million in Proposition 1A funds for rail connectivity projects, including \$106 million for Caltrans intercity rail (Amtrak) and \$706 million for local rail systems. (This amount reflects the remainder of the \$950 million that was set aside in Proposition 1A for rail connectivity.)
- \$252.5 million (\$204.2 million in Proposition 1A funds and \$48.3 million in federal funds) to complete preliminary engineering design work and

(about \$5 billion) of the 130-mile Central Valley segment from Madera to just north of Bakersfield. As shown in Figure 4, of the \$5 billion for construction, \$4.2 billion would be for five separate contracts. The remaining \$800 million would be for design, contingencies, and other construction-related expenditures.

Cap-and-Trade Auctions

The Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006 [AB 32, Núñez/Pavley]), commonly referred to as AB 32, established the goal of reducing greenhouse gas (GHG) emissions statewide to 1990 levels by 2020. In order to help achieve this goal, the California Air Resources Board (ARB) recently adopted regulations to establish a new cap-and-trade program that places a "cap" on aggregate GHG emissions from entities responsible for roughly 80 percent of the state's GHG emissions. The ARB will issue carbon allowances that these entities will, in turn, be able to "trade" (buy and sell) in the open market.

As part of its plan to issue allowances, ARB will hold quarterly auctions at which time a portion of these allowances will be made available for purchase. For 2012-13, ARB's auctions are estimated to generate roughly \$660 million to upwards of \$3 billion. These revenues are expected to be in the tens of billions of dollars in the aggregate over subsequent years.

environmental review for various sections of the project.

In addition, the Governor's January budget proposal includes \$17.9 million for state operations to fund the authority for 73 positions (including 19 new positions), contracts with other state departments, and external contracts for communications, program management, and financial consulting services.

BUSINESS PLAN AND BUDGET PROPOSALS RAISE CONCERNS

Based on our review of the 2012 business plan and the Governor's related budget proposals, we find that the HSRA has not provided sufficient detail and justification to the Legislature regarding its plan to build a high-speed rail system. Specifically, we find that (1) most of the funding for the project remains highly speculative, including the possible use of cap-and-trade revenues; and (2) important details regarding the very recent, significant changes in the scope and delivery of the project have not been sorted out.

Most of the Future Funding Remains Speculative

Future Funds Not Identified. The future sources of funding to complete Phase 1 Blended are highly speculative. Specifically, the funding approach outlined in the 2012 revised business

plan is no more certain than what was proposed in previous plans. For example, the recent plan assumes nearly \$42 billion, or 62 percent of the total expected cost, will be funded by the federal government. However, about \$39 billion of this amount has not been secured from the federal government. Given the federal government's current financial situation and the current focus in Washington on reducing federal spending, it is uncertain if any further funding for the high-speed rail program will become available. In other words, it remains uncertain at this time whether or not the state will receive the necessary funds to complete the project. The absence of an identified funding source at the federal level makes the state's receipt of additional funding unlikely, particularly in the near term. In addition, it is unclear how much, if any, other non-state funds (such as local funds, and funds from operations and development, or private capital) have been secured. In total, only \$11.5 billion (or about 17 percent) of the estimated funds needed to complete the project have been committed.

Use of Cap-and-Trade Auction Revenues Very Speculative. As discussed earlier, the plan proposes to use revenue from the state's quarterly cap-and-trade auctions, which are scheduled to begin in November of this year, to backstop any shortfall in anticipated funding from the federal government. These auctions involve the selling of carbon allowances as a way to regulate and limit the state's GHG

Figure 4

Central Valley Segment Divided Into Five Design-Build Contracts

Contract	Description	Length in Miles ^a	Cost Estimate (in Billions)	Estimated Date of Contract Award
1	North of Fresno through Fresno	26 to 37	\$1.5	December 2012
2	South Fresno to Hanford Aroma Road	28	0.8	September 2013
3	Hanford Aroma Road to Dresser Avenue	55	1.0	September 2013
4	Dresser Avenue to Allen Road	14	0.4	October 2013
5	Trackwork for the entire 130 mile segment	N/A	0.5	March 2017

^a Length of construction segments are approximate.

emissions in accordance with Chapter 488, Statutes of 2006 (AB 32, Núñez/Pavley). As we discussed in our recent brief, *The 2012-13 Budget: Cap-and-Trade Auction Revenues*, the use of cap-and-trade revenues are subject to legal constraints. Based on an opinion we received from Legislative Counsel, the revenues generated from the cap-and-trade auctions would constitute “mitigation fee” revenues. Therefore, in order for their use to be valid as mitigation fees, these revenues must be used to mitigate GHG emissions. Given these considerations, the administration’s proposal to possibly use cap-and-trade auction revenues for the construction of high-speed rail raises three primary concerns.

- ***Would Not Help Achieve AB 32’s Primary Goal.*** The primary goal of AB 32 is to reduce California’s GHG emissions statewide to 1990 levels by 2020. Under the revised draft business plan, the IOS would not be completed until 2021 and Phase 1 Blended would not be completed until 2028. Thus, while the high-speed rail project could eventually help reduce GHG emissions somewhat in the very long run, given the project’s timeline, it would not help achieve AB 32’s primary goal of reducing GHG emissions by 2020. As a result, there could be serious legal concerns regarding this potential use of cap-and-trade revenues. It would be important for the Legislature to seek the advice of Legislative Counsel and consider any potential legal risks.
- ***High-Speed Rail Would Initially Increase GHG Emissions for Many Years.*** As mentioned above, in order to be a valid use of cap-and-trade revenues, programs will need to reduce GHG emissions. While the HSRA has not conducted an analysis to

determine the impact that the high-speed rail system will have on GHG emissions in the state, an independent study found that—if the high-speed rail system met its ridership targets and renewable electricity commitments—construction and operation of the system would emit more GHG emissions than it would reduce for approximately the first 30 years. While high-speed rail could reduce GHG emissions in the very long run, given the previously mentioned legal constraints, the fact that it would initially be a net emitter of GHG emissions could raise legal risks.

- ***Other GHG Reduction Strategies Likely to Be More Cost Effective.*** As we discussed in our recent brief on cap-and-trade, in allocating auction revenues we recommend that the Legislature prioritize GHG mitigation programs that have the greatest potential return on investment in terms of emission reductions per dollar invested. Considering the cost of a high-speed rail system relative to other GHG reduction strategies (such as green building codes and energy efficiency standards), a thorough cost-benefit analysis of all possible strategies is likely to reveal that the state has a number of other more cost-effective options. In other words, rather than allocate billions of dollars in cap-and-trade auctions revenues for the construction of a new transportation system that would not reduce GHG emissions for many years, the state could make targeted investments in programs that are actually designed to reduce GHG emissions and would do so at a much faster rate and at a significantly lower cost.

Significant Changes Made Recently Without Necessary Details

As described earlier, the most recent business plan makes significant changes to how the construction of the high-speed rail project would proceed, by making early investments in the bookends and constructing the southern portion of the high-speed rail line first. In the past, we have recommended that the Legislature work to ensure that any funding provided be spent on segments that have the greatest potential of actually being constructed and operated and can provide benefit to the state's overall transportation system, even if the rest of the system were not completed.

Based on our review of the 2012 revised business plan, the approach of improving passenger rail infrastructure in the San Francisco Bay and the Los Angeles Metropolitan areas has the potential to deliver some such tangible benefits. In addition, the intent to integrate the high-speed train with the overall transportation network sooner than later also has merit. For example, the "Northern Unified Operating Service" could increase ridership on the existing rail system, which could in turn increase the likelihood that the high-speed train would achieve the ridership targets estimated by the HSRA. Collaboration among passenger rail operators throughout the state is also likely to reduce risk and improve the chance of successfully completing the high-speed rail system.

However, despite the potential benefits, we are concerned that the decisions to make the above changes have been rushed with many important details not having been sorted out. While the HSRA has been planning for the project over the past 15 years, the proposed modifications, which substantially change how the project would proceed, were developed within the last couple of months (and in only the last few days with regards to the inclusion of Anaheim). As a result, it is unclear how some of the changes would be

implemented, further adding to the risk of the project. For example, some of the necessary agreements with all parties involved, such as the MOU for the Northern Unified Operating Service, have not yet been reached. In addition, implementation of the project as proposed in the revised 2012 business plan places a greater emphasis on coordination with entities such as the California Department of Transportation (Caltrans), the California Transportation Commission, Amtrak, Union Pacific Railroad, and regional rail systems (such as Caltrain and Metrolink). This would require coordination and leadership from HSRA, which has been lacking in the past in part due to the high number of persistent vacancies in key positions (such as the chief executive operator [CEO] and the risk manager).

LAO RECOMMENDATIONS

In view of the above concerns regarding the certainty of future funding and the recent significant changes proposed for the project, we find that the HSRA has not made a strong enough case for going forward with the project at this time. Accordingly, we recommend that the Legislature not approve the Governor's various budget proposals to provide additional funding for the high-speed rail project. However, we recommend that some minimal funding be provided to continue some of the planning efforts that are currently underway, in order to help the Legislature maintain its future options for the project. Specifically, some of the environmental review and preliminary engineering efforts are nearing completion and it would be costly and time-consuming to start this process over again as opposed to revising and updating environmental documents in the future. In addition, once the necessary environmental documents have been completed, the Legislature may want to consider preserving critical right of way (such as land

in densely populated urban areas) through the purchase of easements or acquisitions. In this way, the Legislature could retain some of the investment already made in the project and maintain its options to proceed in the future.

Alternatively, we recognize that the Legislature may choose to move forward with the high-speed rail project at this time. Given the numerous threats to the project's successful completion, we would recommend that the Legislature take a series of steps to increase the chance that the project is successfully completed. First, we would suggest providing funding at this time for only those contracts that will be awarded in 2012-13. As discussed earlier, the \$5.9 billion for the first construction project will be procured under five separate contracts. The first contract is estimated to be between \$1.5 billion and \$2 billion and is expected to be awarded in December 2012. However, the remaining four contracts would be awarded *after* 2012-13 and, thus, funding for these particular contracts is unnecessary at this time.

We also believe it would be important to improve the governance of the project. In our May 2011 report, *High-Speed Rail Is at a Critical Juncture*, we discussed options to better integrate the high-speed rail project into the state's current transportation planning structure. Over the past year, HSRA has been increasingly relying on Caltrans staff and the new business plan indicates an increasing overlap with the roles and responsibility of Caltrans. At the present time, HSRA is advertising for numerous two-year assignments for current Caltrans staff to come over and fill its vacancies. Therefore, should the Legislature decide to move forward with the project at this time, we

would recommend adopting legislation that would shift the responsibility for the development of the project from HSRA to Caltrans.

Current staffing levels remain far below authorized positions (about 30 of 54 already authorized positions are filled), with many key positions unfilled. In addition, there continue to be serious concerns about interagency coordination, contractor management, and project funding. Thus, we would further recommend that the Legislature adopt budget bill language requiring the new CEO to present a plan that specifies (1) a strategy and timeline for filling vacancies; (2) how HSRA will ensure coordination with other state, regional, and private transportation entities; (3) steps that will be taken to ensure adequate contractor management and oversight; and (4) how new sources of project funding will be developed.

Finally, it will be important for the HSRA to provide certain critical information and key documents. While it is not unreasonable that certain details of the business plan would be periodically revised with changes in circumstances and new information, there are critical parts of the recent plan that lack sufficient detail or have not yet been fully developed. Thus, in order to allow for greater legislative oversight of the project, we would also recommend that the Legislature require HSRA to provide the following to the appropriate fiscal and policy committees: (1) a copy of the UIC study examining how HSRA's estimated operating costs compare to international systems, (2) the MOU with the Northern Unified Operating Service, and (3) an analysis of the net impact that high-speed rail would have on the state's GHG emissions.

2012-13 BUDGET

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AN LAO BRIEF

LAO Publications

This brief was prepared by Brian Weatherford, with contributions from Tiffany Roberts, and reviewed by Farra Bracht. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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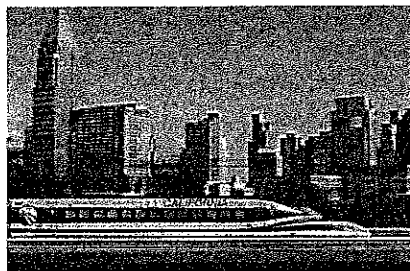
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MONEY & POLITICS | DAILY REPORT

Survey: Likely voters back tax increase, oppose high-speed rail

March 8, 2012 | Will Evans



California High-Speed Rail Authority
An artist's rendering depicts a proposed high-speed rail line in California.

With most Californians worried about the state budget and opposed to trigger cuts to education, a slim majority would support Gov. Jerry Brown's plan to increase taxes, according to a survey released yesterday by the Public Policy Institute of California.

Among likely voters, 52 percent said they would support Brown's proposal to raise the sales tax by half a cent and increase taxes on incomes of more than \$250,000 for the next five years.

But when it comes to another Brown priority, high-speed rail, California voters are not as gung-ho. When told the project would cost \$100 billion over the next 20 years, 53 percent of likely voters said they would oppose it.

Voters passed a \$10 billion bond measure to build the system in 2008, but cost estimates and criticism of the project have grown. State Sen. Doug LaMalfa, R-Oroville, is trying to send the issue back to voters. He introduced a bill and ballot measure that would stop the state from issuing and selling more rail bonds.

"What (the survey) says is if we can get it on the ballot, there's a very, very strong possibility that they're going to vote to repeal the bonds," LaMalfa said. "The damage hasn't been done yet. It's not too late to save nearly \$10 billion."

Still, Lance Simmens, spokesman for the California High-Speed Rail Authority, took heart in another survey statistic: Among all adults, not just likely voters, 51 percent said they support the rail project.

"That, I think, is very significant, that a majority of adults in California favor high-speed rail," Simmens said.

Simmens noted that the Public Policy Institute survey told participants the estimated cost of the project, but not much about its benefits or the cost of alternative ways to meet the "transportation and infrastructure demands of a growing population."

"When confronted with, 'Here are the costs and here are the benefits and here's the alternatives to do the same thing,' you might get different responses," Simmens said.

The survey quizzed Californians on a broad array of issues, from immigration and abortion to legislative term limits.

Among California Republicans likely to vote, the poll put Rick Santorum right behind Mitt Romney in the presidential primary, within the survey's margin of error. President Barack Obama, whose ratings have improved, would beat the Republican candidate by 16 percentage points.

The survey also added to evidence that attitudes on same-sex marriage are changing in the Golden State. Support for allowing gay and lesbian couples to marry rose from 47 percent in 2008 — just before voters approved Proposition 8 to ban same-sex marriage — to 56 percent of likely voters today.

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May 2, 2012

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Re: Impending Violation of Bagley-Keene Open Meeting Act;
Additional Violations of California Environmental Quality Act

Dear Members of the CHSRA Board:

We are writing to object to any consideration of the Addendum to the Final Environmental Impact Report/Final Environmental Impact Statement ("FEIR/S") and the two Errata to the FEIR/S during the Board's May 2 or 3, 2012 meetings concerning the Fresno-Merced Segment. If the Board considers any of these documents during either meeting, then it will violate the Bagley-Keene Open Meeting Act ("Open Meeting Act").¹ In addition, such action will violate the California Environmental Quality Act ("CEQA") – in additional ways beyond those previously identified in this firm's letters submitted heretofore on behalf of the Madera County and Merced County Farm Bureaus, and on behalf of Church & Dwight Co., Inc., and in letters submitted by numerous other interested parties.

¹ See Gov. Code, § 11125(a) ["(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. . . . No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article."]; see also California Attorney General, *A Handy Guide to the Bagley-Keene Open Meeting Act 2004*, p. 7-8 ["[A]t least ten days prior to the meeting, bodies *must* prepare an agenda of *all* items to be discussed or acted upon at the meeting"], citing Gov. Code, § 11125(b), italics added.

Subsequent to the release of the FEIR/S on April 20, 2012, and apparently very shortly before today's hearing, the Addendum and the two Errata to the FEIR/S were posted on the website for the California High Speed Rail Authority ("CHSRA" or "Authority"),² with *no* notification or circulation of these documents to interested parties, such as commenters on the DEIR/S. The attached agenda for the meetings scheduled for today, May 2, 2012, and tomorrow, May 3, 2012, mentions neither the Addendum nor the two Errata.³

The Addendum is not part of FEIR/S – it is a separate CEQA document.⁴ The failure to separately list it in the agenda prevents the CHSRA from taking any action with respect to its adoption or in reliance upon it without proper and timely advanced notice as required by the Open Meeting Act.

Use of an Addendum to the FEIR/S at this juncture also violates CEQA. An Addendum is *only* used to modify an already certified FEIR. CEQA Guidelines, 14 CCR § 15164 provides: "The lead agency or responsible agency shall prepare an addendum to a *previously certified EIR* if some changes or additions are necessary...." [emphasis added]. Here, the proposed FEIR/S has not been certified. Changes to the environmental analysis require modification and recirculation of the DEIR/S with the intended revisions.

Although true errata to a proposed FEIR/S may not require separate agenda description under the Open Meeting Act, the two proposed Errata before the CHSRA are far more than corrective errata. These documents substantially modify the FEIR/S currently under consideration by the Board. For example, the Errata to the FEIR/S deletes one of only two mitigation measures designed to address impacts to agriculture. It also deletes several mitigation measures designed to address impacts to biological resources. These are substantial changes to the environmental analysis that have been improperly included in an Errata to a so-called "Final" EIR. Including these substantial changes in the guise of a last-minute Errata is improper under CEQA, and considering these changes without proper notice would violate the Open Meeting Act.

The Authority afforded the public and other agencies only 11 days to review thousands of pages of revised analysis in the FEIR/S and responses to hundreds of comments. Because the public had only a short period of time to review a such massive amount of material, it was extremely difficult to both notice and review the Addendum, two Errata and other materials more recently released on the CHSRA website. Under these circumstances, it was especially important for the Authority to provide adequate notice of all the materials that the Board would consider during these meetings. Unfortunately, the posted agenda does not satisfy legal requirements for notice under the Open Meeting Act.

We therefore request that the Board postpone consideration of the Fresno to Merced Segment in order to correct these patent violations of CEQA as well as the Open Meeting Act.

² See CHSRA Website for FEIR/S: <http://www.cahighspeedrail.ca.gov/final-eir-m-f.aspx> (May 2, 2012).

³ See Attachment A: agenda for CHSRA Board meetings on May 2-3, 2012.

⁴ See, for example, CEQA Guidelines, 14 CCR §§ 15621

Thank you in advance for your anticipated consideration of our concerns.

Very truly yours,

FITZGERALD ABBOTT & BEARDSLEY LLP

By



Jason W. Holder

Attachment: Agenda for May 2-3, 2012 CHSRA Board Meetings

cc: (via e-mail only)

Anja Raudabaugh, Executive Director, Madera County Farm Bureau

Amanda Carvajal, Executive Director, Merced County Farm Bureau

Madera County Board of Supervisors

Madera County Planning Department:

Norm Allinder, Planning Director

Merced County Board of Supervisors:

John Pedrozo, Hub Walsh, Deidre Kelsey, Linn Davis, and Jerry O'Banion

California Farm Bureau Federation:

Christian C. Scheuring, Managing Counsel



CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY

AMENDED 4/21/12

MONTHLY MEETING AGENDA

Fresno Convention Center
Exhibit Hall 3
700 M Street
Fresno, CA
May 2nd and 3rd, 2012

May 2nd = 10:00 am Start Time

May 3rd = 9:00 am Start Time [Agenda Items 9 and 10 start at 10:00 am]

PUBLIC COMMENT

An opportunity for public comment will be provided either before or during the consideration of each agenda item. Typically public comment will be limited to 2 minutes per person, however the Chair may decide to shorten or lengthen the public comment periods, at his or her discretion. **** Those persons, who wish to comment on agenda and non-agenda items, are required to submit their requests to Board Secretary before the start of the meeting by filling in the green cards. ****

Agenda Items – Day 1 (5/2/12)

Responsible Party

1. Staff Presentation on the Merced to Fresno Section Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS)
The Board will receive a brief staff presentation on the Merced to Fresno Section Final EIR/EIS. M. McLoughlin
2. Public Comment on Merced to Fresno Section Final EIR/EIS
The Authority intends to receive public comment on the Merced to Fresno Section Final EIR/EIS. Board Chair
3. Update on amendments to Small and Disadvantaged Business Enterprise Program
Staff will update the Board on the amendments to the Small and Disadvantaged Business Enterprise Program O.Fonseca/T.Fellenz
4. Operations Committee PMO Report H. van Winkle/Board Committee Members
5. *Closed Session Pertaining to Litigation*
The Authority Board will meet in closed session pursuant to Government Code section 11126(e)(2)(A) to confer with legal counsel with regard to the following litigation: Board Members/Legal Counsel
 - *Town of Atherton v. California High-Speed Rail Authority, Sacramento Superior Court No. 34-2008-80000022*
 - *Town of Atherton v. California High-Speed Rail Authority, Sacramento Superior Court No. 34-2010-80000679*
 - *John Tos; Aaron Fukada and County of Kings v. California High Speed Rail Authority, Sacramento Superior Court Case No. 34-2001-00113919**The Authority may also meet in closed session pursuant to Government Code section 11126(e)(2)(B) (i) to consider potential litigation.*
6. Closed session related to employment of a Chief Executive Officer
The Authority Board will meet in closed session pursuant to Government Code section 11126(a) to discuss the employment of a new Chief Executive Officer Board Members/Legal Counsel

770 L Street, Suite 800, Sacramento, CA 95814 / (916) 324-1541, (916) 322-0827 fax
For further information you may visit the California High-Speed Rail Authority Web site at
www.cahighspeedrail.ca.gov

Agenda Items – Day 2 (5/3/12)

- | | |
|--|-------------------------|
| 7. Report from Operations Committee on PMO Report | Board Committee Members |
| 8. Supplemental Alternatives Analysis Report for Palmdale – Los Angeles
<i>Staff will provide an update and make recommendations regarding changes in alignments and station alternatives for further study between Palmdale and Sylmar within the Palmdale to Los Angeles HST section. The Board will have an opportunity to provide direction on the alternatives to carry forward for study in the project EIR/EIS for this section.</i> | M. McLoughlin |
| 9. Summary of and Brief Response to Comments received on Merced to Fresno Section Final EIR/EIS | M. McLoughlin |
| 10. Consideration of a Resolution to Certify Merced to Fresno Section Final EIR/EIS, Select North/South Alignment and Station Locations, and Make Related Decisions
<i>The Board will discuss and consider taking action on a resolution that would certify the Merced to Fresno Section Final EIR/EIS for compliance with the California Environmental Quality Act (CEQA), adopt CEQA Findings of Fact, a Statement of Overriding Considerations, and Mitigation Plan, and approve a north/south alignment and station locations in Merced and Fresno.</i> | T. Fellenz |
| 11. Adopt and Approve the Limited English Proficiency Plan
<i>Staff will request Board adoption and approval of the Limited English Proficiency Plan</i> | O.Fonseca/T.Fellenz |
| 12. Update on amendment to Title VI Plan
<i>Staff will update the Board on the amendment to the Title VI Plan as directed by the Board at the March 1, 2012 Board Meeting.</i> | O.Fonseca/T.Fellenz |
| 13. Blending Update/Caltrain | G. Albright |
| 14. Visual Guidelines | G. Albright |
| 15. Legislative Update
<i>Staff will present an overview of action legislation that pertains to California's high-speed train project and/or to the Authority and request the guidance of the Board.</i> | K. Greene Ross |
| 16. Members' Report | Board Members |
| 17. Chief Executive Officers' Report | T. Fellenz |

AGENDA ITEMS LISTED FOR EACH DAY MAY BE TAKEN OUT OF ORDER LISTED ON THAT DAY

Reasonable Accommodation for Any Individual with a Disability

Any individual with a disability who requires reasonable accommodation to attend or participate may request assistance by contacting the Authority at (916) 324-1541. Requests for additional accommodations for the disabled, signers, assistive listening devices, or translators should be made no later than one week prior to the meeting.

770 L Street, Suite 800, Sacramento, CA 95814 / (916) 324-1541, (916) 322-0827 fax
For further information you may visit the California High-Speed Rail Authority Web site at
www.cahighspeedrail.ca.gov



**Sulphur Springs
Union
School District**
Serving Grades
K - 6

Administrative Offices
27000 Weyerhaeuser Way
Santa Clarita, CA 91351
Phone: 661-252-5131
www.sssd.k12.ca.us



Schools

*Canyon Springs
Community School*

*Fair Oaks Ranch
Community School*

*Golden Oak
Community School*

*Leona Cox
Community School*

*Mint Canyon
Community School*

*Mitchell
Community School*

*Pinetree
Community School*

*Sulphur Springs
Community School*

*Valley View
Community School*
District Office Fax #'s
Business Services
661-252-8814
Personnel Services
661-252-3589
Instructional Services
661-252-6847
Special Education Services
661-252-6229
Superintendent's Office
661-252-6849
Technology Department
661-252-6848

June 20, 2011

California High Speed Rail Authority
Board:
770 L Street, Suite 800
Sacramento, CA 95814

Thomas J. Umberg,
Chairperson
Lynn Schenk, Vice
Chairperson
Thomas Richards, Vice
Chairperson
Curt Pringle
David Crane
Russ Burns
Matthew Toledo
Robert Balgenorth
Jim Hartness

Sara M. Cosin, Vice President
Consensus, Inc.
626 Wilshire Blvd, #1000
Los Angeles, CA 90017

Re: High Speed Rail Community and Safety Risk Impacts

Sulphur Springs Community School
16628 Lost Canyon Road
Canyon Country, CA 91387

Dear California High Speed Rail Authority Board:

The Superintendent and Board of Trustees of the Sulphur Springs Union School District are alarmed and gravely concerned about the proposed construction by the California High Speed Rail Authority of a high-speed rail project within the District and area boundaries. The proposed track alignment within four hundred feet of Sulphur Springs Community School is likely to impact the health and safety of students, staff, and the related school community.

Since the proposed high-speed rail line is dangerously close to the school site, we are highly concerned with frequency, speed, and schedule of railroad traffic, need for sound or safety barriers, need for pedestrian and vehicle safeguards at railroad crossings, derailment risk, EMF exposures, and preparation of an evacuation plan. In addition, we have concerns with air quality, noise including but not limited to sound pressure level and ground vibration. Because of these factors, we will be responding vigorously to your EIR and will seek appropriate legal and consulting resources to protect the health and safety of the students.

In addition to the aforementioned concerns relating specifically to the impact of our current school, the Board of Trustees holds additional concerns for the greater community. It is for the reasons listed below that all potential impacts must be thoroughly evaluated and appropriately mitigated.

- The law, sound public policy, and sound governance dictate that with a project of this far reaching scope and nature, that care, study, consideration and due diligence must be used in the planning and engineering of a high speed rail system such as the one being proposed. It is our belief that not nearly enough study and consideration have gone into what impact that such a rail system is going to have on the Canyon County community
- The School Board must be mindful of issues that extend beyond the mere statutory and regulatory issues associated with the schools themselves and must look at how the rail project could potentially affect the way parents and children perceive our schools.
- In all likelihood, parental and student perception about the safety and the physical educational environment will be impacted in regard to Sulphur Springs Community School. The probably and even imminent outcomes will be the loss of enrollment at these schools and corresponding reduction in state funds to the District; thus resulting in a compromising of the District's ability to provide the funding necessary to support quality education across the broad spectrum of the District.

We appreciate the opportunity to express our concerns. It is extremely important these issues are addressed in a timely manner and strongly considered prior to implementation or HSR Board approval.

Sincerely,



Robert A. Nolet, Ed. D.
Superintendent

C: Senator George Runner
 California State Senate, 17th District
 23920 Valencia Blvd., #250
 Santa Clarita, CA 91355

 Assemblyman Cameron Smythe
 California State Assembly, 38th District
 23734 Valencia Blvd., #303
 Santa Clarita, CA 913455

 Supervisor Michael Antonovich
 Los Angeles County Board of Supervisors
 500 W. Temple St., #869
 Los Angeles, CA 90012

 City of Santa Clarita
 23920 Valencia Blvd., #300
 Santa Clarita, CA 91355

Sulphur Springs School District Governing Board Members

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

RANDOLPH G. MUHLESTEIN
r.muhlestein@mpglaw.com
(213) 629-7651

ONE WILSHIRE BOULEVARD, SUITE 2000
LOS ANGELES, CALIFORNIA 90017-3383

TELEPHONE: (213) 629-7600
FACSIMILE: (213) 624-1376
WWW.MUSICKPEELER.COM

LOS ANGELES
ORANGE COUNTY
SAN DIEGO
SAN FRANCISCO
SANTA BARBARA
WESTLAKE VILLAGE

FILE NO.: 33268.002

May 1, 2012

VIA FEDEX

Mr. Thomas Fellenz
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Mr. David Valenstein
Chief, Environment and Systems Planning Div.
Office of Railroad Policy and Development
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE, MS-20
Washington, DC 20590

Re: Final California High-Speed Train Project Environmental Impact Report/Environmental Impact Statement and Final Section 4(f) Statement and Draft General Conformity Determination Merced to Fresno Section

Gentlemen:

This firm represents Azteca Milling, L.P. ("Azteca Milling"), and this letter will constitute Azteca Milling's formal written comment on the Final California High-Speed Train Project Environmental Impact Report/Environmental Impact Statement and Final Section 4(f) Statement and Draft General Conformity Determination Merced to Fresno Section issued in April of 2012 (the "Final Report").

Azteca Milling operates a corn milling plant located at 23865 Avenue 18, Madera, California and a grain storage facility located approximately two miles away at 20100 Fairmead Blvd., also in Madera. Azteca Milling strongly opposed the proposed UPRR/SR 99 route between Merced and Fresno because it could have destroyed Azteca Milling's corn milling plant, wiping out 100 well-paying jobs and foreclosing the planned expansion of the plant. Also, if the Avenue 21 Wye variation of the UPRR/SR 99 route had been chosen, it could have cut off access to Azteca Milling's grain storage facility, rendering such facility unusable. Azteca Milling expressed these concerns to the California High-Speed Rail Authority (the "Authority") on

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

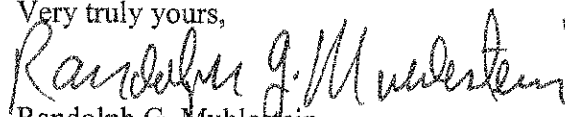
Mr. Thomas Fellenz
Mr. David Valenstein
May 1, 2012
Page 2

several occasions, including through formal oral and written comments on the draft version of the Final Report.

Azteca Milling is delighted that the Hybrid Route that was selected in the Final Report bypasses both its corn milling plant and its grain storage facility, leaving it free to continue its business operations and implement its expansion plans, and urges that the Authority certify the Final Report and that the Federal Railroad Administration (the "FRA") issue a record of decision approving the Final Report. Azteca Milling expresses its sincere appreciation to the Authority representatives who met with Azteca Milling, listened to its concerns, and courteously provided needed information and guidance.

Azteca Milling has only one remaining concern. The Final Report leaves open for a subsequent EIR/EIS the selection of the location of the heavy maintenance facility. While none of the choices of proposed locations would have a direct impact on Azteca Milling's corn milling plant, locating the heavy maintenance facility at the Gordon-Shaw site could potentially cut off access to Azteca Milling's grain storage facility. Accordingly, Azteca Milling respectfully urges the Authority and the FRA to select one of the other alternative locations for the facility.

Very truly yours,



Randolph G. Muhlestein
for MUSICK, PEELER & GARRETT LLP

cc: Mr. Barry Runyon (Via Email)
Mr. Alberto Jacques (Via Email)
Mr. Angel Tamez (Via Email)
Lic. Salvador Elias (Via Email)
Mr. Bobby Kahn (Via Email)

Fagundes Brothers Dairy

May 1, 2012

Chairman Dan Richard
California High-Speed Rail Authority
925 "L" Street, Suite 1425
Sacramento, CA 95814

**Re: Fagundes Brothers Dairy's Comments on the Merced to Fresno Final
Environmental Impact Report / Environmental Impact Statement**

Dear Chairman Richard and Members of the Authority:

The parties referred to in this letter as Fagundes Brothers Dairy¹ have been participating in the California High-Speed Rail Authority's (Authority) environmental review process for many months and we appreciate the opportunity to provide comments on the Merced to Fresno Final Project Environmental Impact Report / Environmental Impact Statement (Final EIR/EIS).

During the many months that we have been participating in the environmental review process, we've had the opportunity to discuss the benefits of California's high speed rail project with Vice Chairman Thomas Richards, Mr. Dick Wenzel, Mr. Mike Lynch, and other Authority staff and consultants. We've also been fortunate to be able to describe and physically show them the numerous impacts every alignment of the Merced to Fresno section and "Chowchilla Wye" would have on our operations.

Our first major disappointment in the environmental review process was the realization that the "Chowchilla Wye" would not be evaluated in the Final EIR/EIS. By effectively removing the analysis from this document you have left many landowners, businesses, and everyday citizens with half-baked analysis that does nothing but cause confusion. Furthermore, the awkward mention and deferral of real analysis of the SR 152 Wye, coupled with interspersed mention of the varying Avenue 24 and 21 Wye options, leaves the public perplexed as to what is truly be evaluated.

¹ As used herein, the term Fagundes Brothers Dairy refers collectively to the following affiliated individuals and entities: 1) Fred Fagundes; 2) Ralph Fagundes; 3) Lloyd Fagundes; 4) Deborah Fagundes; 5) Vicki Fagundes; 6) Fagundes, Fagundes, Fagundes; 7) Fagundes Brothers LLC; 8) Fagundes Dairy; 9) Fagundes Family Trust; 10) Valley Calf LLC; Forebay Farms LLC and 11) Fagundes Dairy #2. These comments are submitted on behalf of each of the listed individuals and entities.

Fagundes Brothers Dairy

This confusion hit home for us when we learned that the Authority was preparing the "*Impacts on Confined Animal Agriculture Technical Memorandum*" (Technical Memo) as part of the Final EIR/EIS. It was our understanding that the Wye would not be evaluated in the Final EIR/EIS, yet almost all of the confined animal facilities analyzed in the Technical Memo are located on or near the various Wye options. Including some analysis of the Wye, yet excluding other analysis, creates mistrust and violates the premise of full-disclosure.

Setting aside the confusion caused by including half-baked analysis of the Wye, by preparing the Technical Memo, we thought the Authority might be taking the impacts to our operations seriously and wanted to accurately quantify them so that sound decision making would prevail. We were therefore deeply disappointed when the Technical Memo did not do either of those things, and was instead riddled with inaccuracies and conclusions wholly unsupported by the facts.

As described in our Draft EIS/EIR comment letter submitted to the Authority on October 12, 2011, we have diversified our business from a single-barn dairy operation to multiple dairies, almond and pistachio orchards, vineyards, several row crops, and certified organic and conventional farmland. Two dairies, two calf ranches and over 25 parcels of farm ground are located near Chowchilla and are directly impacted by the *Hybrid Alternative with the Avenue 24 wye*.

It was with disbelief that we read the Technical Memo and found that our home dairy and calf ranch were incorrectly described and the impacts characterized as **Moderate**. Our initial surprise was that the dairy was described as the AJ Dairy located at 23468 Road 12. That is neither the name nor address of our dairy that is directly impacted by the *Hybrid Alternative with the Avenue 24 wye*. In addition, the boundaries of the impacted dairy are absolutely wrong. There are three distinct dairies located in the vicinity of Avenue 24 and Road 12 and the Technical Memo describes them as one large dairy. For this reason alone, the Technical Memo is fatally defective and must be revised.

This mistake leads directly to our main concern in that the impacts are characterized as **Moderate**. The Authority's arbitrary standard for quantifying impacts as Severe (operations unlikely to continue), Moderate (loss of facilities, but operations likely to continue, or Negligible (No or very little direct or indirect impact) is absolutely useless if the persons making the determination don't know the facilities or nuances of the industry. For example, since our dairy located at the southwest corner of Avenue 24 and Road 12 is lumped together with two other dairies, the impacts appear less severe than they would be if the *Hybrid Alternative with the Avenue 24 wye* is selected. The Technical Memo says:

Fagundes Brothers Dairy

"The impact is expected to be moderate because the acquisition would require only 10 percent of the overall dairy facility, and would cleanly sever this area near an existing access road."

Obviously this statement is erroneous. In reality, it would directly impact over 50% of our dairy and put it out of business.

Valley Calf Ranch, our nearby calf ranch located between Avenues 23 ½ and 24, was also incorrectly characterized. The most amazing statement is that it is a *poultry* operation. We provided the Authority tours and access to all of our facilities and this mischaracterization demonstrates that the time spent was for not and that Authority personnel paid no attention to information provided. The Technical Memo describes Valley Calf Ranch as follows:

"...This would require the acquisition of the entire poultry operation. No critical feedlot infrastructure (such as holding pens and wastewater lagoons) is located in this area, so the overall level of impact is expected to be moderate."

Once again, this statement is erroneous. The entire poultry operation described above is actually the area where we raise our dairy calves (which you can easily see from Avenue 24). The calves are raised in hutches until they reach a certain size then moved to corrals located on the ranch. Since the area where the calves are raised would be directly impacted the HSR alignment, the ranch would become useless and also put it out of business. Describing the impact as **Moderate** is insulting and demonstrably incorrect.

In addition to the misrepresentations above, the Technical Memo completely left out any analysis of the impacts to our calf ranch located at 12467 Avenue 24 ½ or our heifer ranch located at the northwest corner of Avenue 23 ½ and Road 13. Both of these ranches are confined animal facilities directly impacted by the *Hybrid Alternative with the Avenue 24 wye* yet there is no mention of them in the Technical Memo. This lack of thorough analysis goes to show the carelessness and lack of professionalism the Authority has taken in its approach to the environmental analysis.

The fact remains that if the *Hybrid Alternative with the Avenue 24 wye* is selected by the Authority, our entire Chowchilla farming operation will no longer be profitable. Besides the direct impacts to our dairy and other ranches described above, the re-routing and closing of roads, as well as the lack of crossings, will eliminate our ability to transport goods, inputs and equipment between our fields and other facilities, as well as create inefficient farm parcels that would make them infeasible. This route will directly impact many of our facilities and homes, as well as over 25 parcels totaling over 1,000 acres of farmland and 100s of acres of land within the Sphere of Influence of Chowchilla. None of these impacts have been recognized,

Fagundes Brothers Dairy

much less adequately studied or addressed by the Authority. The Final EIR/EIS cannot be adopted until these errors and omissions are corrected.

In that regard, if the *Hybrid with the Avenue 24 wye* route is selected, it is our expectation that the Authority will purchase our entire operation at fair market value, including the land, houses, livestock, barns, equipment and other miscellaneous improvements. In addition, we must be compensated for the loss of future earnings, as anything less would be insufficient and constitute a *taking* under the US and California Constitutions.

In regards to the Final EIS/EIR, we are appalled at the lack of analysis, incomplete information, and inadequate responses to our questions and concerns. We raised many concerns regarding the environmental process and decision making by the Authority and none of them have been adequately addressed.

It seems obvious that the Federal timelines to spend the American Recovery and Reinvestment Act (ARRA) money has pushed the Authority into reckless decision making, while ignoring the requirements of CEQA, NEPA, CWA, and the State and Federal ESAs. This recklessness is demonstrated in many ways and a few examples are provided below:

1. The piecemealing of the project;
2. Incomplete and inaccurate disclosure and analysis (see Technical Memo);
3. Lack of concern for underrepresented communities; and
4. Ignoring the Bay Area to Central Valley Program EIS/EIR and Proposition 1A's requirements to use existing corridors.

Ultimately, we concur with the US Environmental Protection Agency (EPA) in their March 23, 2012 letter that a Least Environmentally Damaging Practicable Alternative (LEDPA) determination cannot occur until it is demonstrated "that the design options for Chowchilla and the "Wye" have avoided and minimized impacts to aquatic resources to the maximum extent possible." This can only happen if the HSR project is analyzed as a whole, complete and accurate analysis occurs, the impacts to our extremely poor community are accurately characterized, and the letter and intent of the relevant Federal and State environmental laws are followed. None of that has occurred, and as a result both the Final EIR/EIS and your process are fatally defective. Throughout the document, the analysis of the environmental impacts is flawed, inadequate, buried in the appendix, or deferred for future study.

* * *

Fagundes Brothers Dairy

We implore you to (i) withdraw and correct the Final EIR/EIS and the Technical Memo and (ii) delay your decision making and take the necessary time to accurately address the concerns of our community. Please feel free to contact us at (209) 383-6046 should you have questions regarding any of the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Samuelson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brad Samuelson
General Manager
Fagundes Brothers Dairy

Cc:

Jeff Abercrombie
Regional Director

Chowchilla Water District

Post Office Box 905 ♦ 327 S. Chowchilla Blvd. ♦ Chowchilla, CA 93610
Phone (559) 665-3747 ♦ Fax (559) 665-3740 ♦ Email dwelch@cwdwater.com

Board of Directors

Dan Maddalena ♦ Michael Mandala ♦ Vince Taylor ♦ Kole M. Upton ♦ Mark Wolfshorndl

May 1, 2012

VIA OVERNIGHT MAIL, EMAIL AND HAND DELIVERY

California High-Speed Rail Authority

Board of Directors
770 L Street, Suite 800
Sacramento, CA 95814

Attn: Jeff Abercrombie, Area Program Manager Central Valley
770 L Street, Suite 800
Sacramento, CA 95814
E-mail: merced_fresno@hsr.ca.gov

Re: Comments Concerning California High-Speed Rail Train Project Final EIR/EIS
Merced to Fresno Section

Dear Members of the CHSRA Board and Mr. Abercrombie:

The Chowchilla Water District (the "District") has received your Authority's proposed Merced to Fresno High-Speed Train Project Final Environmental Impact Report/Environmental Impact Statement (the "EIR/EIS"). The purpose of this letter is to voice our strong objection to the manner in which the District's comments on the draft version of the EIR/EIS were addressed.

At the outset, the District notes that the EIR/EIS was circulated for public review barely one week before the meeting at which the Authority apparently intends to certify it. At best, it is imprudent to provide the public with such a short period of time to review such a critical document. At worst, it is bad faith and a violation of both the letter and spirit of the law. This is a highly complex and controversial project with far-reaching consequences for both individuals and the State, and there can be no justification for rushing certification of the EIR/EIS in this manner. Consideration of the document should be deferred to provide an adequate opportunity for all interested parties to review and comment.

Even more troubling than the rush to judgment in which the Authority is apparently engaged is the short shrift the District's comments on the draft EIR/EIS received. As outlined in letters to the Authority dated October 7, 2011 and October 11, 2011, the draft EIR/EIS failed to consider significant impacts of the project on the District's facilities and operations, which affect not only the District but those it serves. Those impacts are not merely economic; they go to the

viability of agriculture in the region, societal consequences, air quality, and host of other concerns. The Authority's response to the District's comments was to defer consideration of those impacts by stating that it will develop an agreement addressing them with the District at some undetermined later date, and by incorrectly characterizing those impacts as "not impacts to the natural or human environment."

Comments to draft environmental documents must be addressed in a meaningful way, and legitimate impacts of a proposed project cannot be ignored out of expediency. Responses that simply "kick the can down the road" are inappropriate as matter of policy and law, as they fail to address the comments. They can also render the document inadequate. That is what has occurred here.

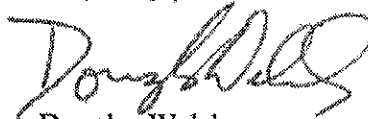
The Authority elected to address the District's comments about infrastructure impacts by committing to do further study and/or enter into future agreements with unknown terms. Demonstrable impacts of the project like those raised by the District must be assessed now, not put off to a future date, in order to adequately assess the overall impacts of the project. Any other course of action renders the EIR/EIS defective. Moreover, subsequent agreements addressing infrastructure impacts may themselves be subject to environmental analysis; not addressing those issues in the EIR/EIS amounts to piecemealing.

At a practical level, how can the District be confident that the Authority will propose an agreement that adequately mitigates all the impacts? What is the District's recourse if an acceptable agreement is not timely developed? The Authority seems more interested inviting litigation than in resolving issues.

The District urges the Authority to take the time now to address the District's comments, and many other comments that were also effectively ignored, before it considers the EIR/EIS for certification.

Finally, the District is familiar with the letter dated May 1, 2012 addressed to the California High Speed Rail Authority Board of Directors from Jason Holder on behalf of the Madera County Farm Bureau and Merced County Farm Bureau addressing the EIR/EIS. The District endorses, incorporates and adopts all of the comments in that letter as if fully set forth herein.

Very truly yours,



Douglas Welch
General Manager

cc: Federal Railroad Administration
Department of Transportation
The Honorable Jeff Denham

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IN RE:)
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CHOWCHILLA WATER DISTRICT)
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BOARD MEETING,)
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)

Chowchilla, California

February 15, 2012

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CHOWCHILLA WATER DISTRICT BOARD MEETING
REGARDING CALIFORNIA HIGH SPEED RAIL AUTHORITY

-o0o-

Reported by:
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2 FOR THE CHOWCHILLA WATER DISTRICT:

3 DAN MADDALENA

4 KOLE UPTON

5 DOUG WELCH

6 MARK WORLFSHORNDL

7 MIKE MANDALA

8 LELA BEATTY

9 VINCE TAYLOR

10 FOR THE CALIFORNIA HIGH SPEED RAIL AUTHORITY:

11 JEFF ABERCROMBIE

12 FOR PARSONS:

13 DAVID LEVERENE

14 SAMPATH GOOLIA

15 FOR AECOM:

16 DICK WENZEL

17 FOR FEDERAL ROAD ADMINISTRATION (BY PHONE):

18 MELISSA DUMOND

19 CHRIS VAN NOSTRAND

20 COREY HILL

21

22 Also present at meeting was MIKE LYNCH, JOHN
23 GARAMENDI, SHAY HUMPHREY, ALAN BOONE, MILLIE METTERS,
24 DARIN LIPTON and BRANDON TOMLINSON. MARGARET BYFIELD AND
25 DAN BYFIELD APPEARING BY PHONE.

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9 BE IT REMEMBERED, that on Wednesday, the 15th day of
10 February, 2012, commencing at the hour of 9:00 a.m.
11 thereof in the offices of Chowchilla Water District, 327
12 South Chowchilla Boulevard, Chowchilla, California,
13 before me, SAMERA ALYAFATIE, a Certified Shorthand
14 Reporter in and for the State of California, the
15 following proceedings were held.
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1 BOARD CHAIRMAN MADDALENA: Call to order this
2 meeting.

3 Item No. 2, public comments. The first 15
4 minutes is made available for comments from the public on
5 matters within the board's jurisdiction that's not on the
6 agenda. Each speaker will only be given three minutes.
7 It is requested that no comments be made during that
8 period on the items that are on today's agenda. Members
9 of the public may comment on items that are on today's
10 agenda when it's called.

11 No. 3, is there any addition to the agenda?

12 MR. WELCH: No.

13 BOARD CHAIRMAN MADDALENA: No additions, we'll
14 move on to No. 4.

15 MR. WELCH: I take it back. I think the
16 High-Speed Rail Authority, or FRA, wanted to make a
17 presentation. Why don't we make it after Item E, between
18 E and F?

19 BOARD CHAIRMAN MADDALENA: Okay.

20 BOARD MEMBER UPTON: Can we have it with a
21 caveat that some of it will probably be discussed during
22 our --

23 MR. ABERCROMBIE: What I would hope to do is,
24 because what we put together -- this is Jeff Abercrombie.
25 What we put together, we tried to follow exactly your

1 agenda, and so, you know, where possible, if
2 we've got material that's associated with the particular
3 agenda item, we can flip to the handout and kind of talk
4 a little bit about it with what's there, if that works.

5 MR. WELCH: That's fine. The only other change
6 I wanted to do is I thought it might be more appropriate
7 to have Item 5(b), damage to facilities, before we talk
8 about Item 5(a), access.

9 BOARD CHAIRMAN MADDALENA: We'll just go to B
10 instead of A and then --

11 BOARD MEMBER UPTON: I move we make those
12 additions and changes.

13 BOARD MEMBER MANDALA: I second that.

14 BOARD CHAIRMAN MADDALENA: Having heard from
15 Kole and a second, any discussion? All those in favor
16 say aye.

17 (Chorus of ayes.)

18 BOARD CHAIRMAN MADDALENA: Any opposed?

19 We'll go to No. 4 now, introduction of people
20 that's on the phone, and we need to go around the room.
21 Who is on the phone?

22 MR. WELCH: So, Melissa, you're on the phone?
23 Hello?

24 MR. HILL: This is Corey Hill from FRA. So from
25 FRA we've got Melissa Dumond. Again, I'm Corey Hill, I'm

1 the director of rail project development and deliver, and
2 then we have Chris Van Nostrand, who is with our legal
3 counsel.

4 MS. BYFIELD: This is Margaret Byfield.

5 MR. BYFIELD: Dan Byfield.

6 BOARD CHAIRMAN MADDALENA: My name is Dan
7 Maddalena, I'm a Chowchilla board member.

8 BOARD MEMBER MANDALA: Mike Mandala, Chowchilla
9 Water District.

10 BOARD MEMBER WORLFSHORNDL: Mark Worlfshorndl,
11 Chowchilla Water District.

12 MR. WELCH: Doug Welch, general manager of
13 Chowchilla Water District.

14 BOARD MEMBER UPTON: Kole Upton, director.

15 MS. BEATTY: Lela Beatty, office manager.

16 MR. WENZEL: Dick Wenzel, the project manager
17 for High-Speed Rail project, Merced to Fresno.

18 MR. LEVERENE: Dave Leverene, the project
19 manager for the High-Speed Rail.

20 MR. GOOLIA: Sampath Goolia, engineering, San
21 Jose to Merced.

22 MR. ABERCROMBIE: And Jeff Abercrombie, Central
23 Valley High-Speed Rail manager. And for the sake of
24 those on the phone, you want to let them know that we
25 have both a court reporter and a recording audio for the

1 meeting. For those that are on the phone that obviously
2 can't see, I want to clarify that that's there. Okay?
3 Thanks.

4 MR. WELCH: This is a board meeting of the
5 Chowchilla Water District. It's a public meeting of a
6 public agency. The meeting was properly noticed. Why
7 don't we go ahead and have the people in the audience --

8 BOARD CHAIRMAN MADDALENA: People in the
9 audience.

10 MS. HUMPHREY: I'm Shay Humphrey, I'm with the
11 outreach team on the Merced to Fresno section.

12 MR. BOONE: Allen Boone with AECOM, engineering
13 manager for the Merced to Fresno section.

14 MR. LYNCH: Mike Lynch, AECOM.

15 MR. TOMLINSON: Brandon Tomlinson, assistant
16 general manager of Chowchilla Water District.

17 MR. GARAMENDI: John Garamendi, Jr.

18 MS. METTERS: Millie Metters.

19 BOARD CHAIRMAN MADDALENA: We're going to move
20 on to No. 5, initiation of the coordination process of
21 the California High-Speed Rail project between Federal
22 Railroad Administration, the California High-Speed Rail
23 Authority and Central Water District.

24 Okay. So we're going to go to B now, Damage to
25 Facilities - a discussion of the damage that the project

1 will have on existing Chowchilla Water District
2 facilities, canals, pipelines, ponds, structures and a
3 plan to mitigate damages.

4 MR. WELCH: I thought before we talked about
5 damage to the facilities, we'd actually talk about what
6 the facilities look like. Chowchilla Water District has
7 150 miles of canals, about one half miles of those are
8 concrete lined, the rest are earth. The concrete lined
9 ones are by development just west here of -- well, it's
10 in Chowchilla, but it's just west of here. We have 50
11 miles of pipeline, most of that is anywhere from 52-inch
12 down to 18-inch. Anything 30 inches and above is poured
13 in place, cracked in place monolithic and to have
14 concrete poured back in the '60s it's -- well, I'll just
15 put it this way, the first year they poured like, I don't
16 know, five miles and Judge Eastman, who was the manager
17 at the time, said they have 2000 leaks the first year, so
18 a lot of cracking with the product. Anyway, most of our
19 system -- I mean, this is concrete lined, but most of the
20 system has a canal and then the heading of the canal with
21 some gates on it, and then a canal that takes off. And
22 those facilities are operated by what we call a ditch
23 tender, and there are seven ditch tender areas in the
24 district, and those seven guys have to patrol and operate
25 all the facilities in their canals.

1 I'll just pass that around and you can look at
2 it.

3 BOARD MEMBER UPTON: Doug, will you have these
4 available to give to them?

5 MR. WELCH: Yeah, absolutely. And then we have
6 a typical check structure in the district. It's a
7 concrete structure, then with a center opening where what
8 we call stop logs or two-by-sixes are put in to control
9 the water height. As you send more water down the canal,
10 you -- we try to maintain the water level within about
11 plus or minus three inches in order to deliver it to the
12 farmer. Sometimes we have to maintain it within about an
13 inch, because of very low head conditions, the canal is
14 not very high above the adjacent land. So you have to
15 put boards in and out every day. As you put more water
16 in and taking more water out, you got to evaluate, okay,
17 the water is going to rise two inches. Well, it's on the
18 low side now, so I don't have to put a board in today,
19 tomorrow, and maybe you put in a two-by-four instead of a
20 two-by-six. So there's probably, I think, at least 500
21 of those structures throughout the district.

22 MR. ABERCROMBIE: You didn't -- in terms of the
23 gated structures, the one that are -- like, you didn't --
24 I mean, that one you just kind of quantified for me in
25 terms of 500.

1 MR. WELCH: Oh, headings? There's probably
2 about 20 headings of main canals, and then there's
3 probably another 20 of little, small laterals that come
4 off of them. And then this is a check structure that's
5 been modified. Instead of having just the one where
6 we've made it into what we call a long-crested weir, it
7 makes it so that you don't have to change the boards as
8 often. It reduces the labor costs in the district.

9 And then finally we actually have what is called
10 passive upstream automation. This is a gate that was
11 developed at Cal Poly San Luis Obispo. It's called an
12 ITRC flap gate. The Chowchilla Water District did all
13 the beta testing for them. We've now installed probably
14 about 85, 90 of these gates. They -- just because of the
15 balance and the weight that you have versus the loss
16 through the water and the weight of the water, a bunch of
17 math and physics that I won't try to explain, because I
18 barely understand it when I'm looking at all the forces
19 and numbers, but it maintains an upstream water level
20 within about plus or minus two inches. And it
21 substantially reduces labor in the district and being
22 able to send the water down earlier. We also have -- I
23 think we have 15 now regulating ponds in the district.
24 These are normally either halfway down the canal or
25 two-thirds of the way down the way. And if there's extra

1 water in the canal, this is a five-acre pond that's 10
2 feet deep, has the capacity of about 80 acre feet total.
3 So if there's too much water in the canal, it
4 automatically goes in and it overpours over a big long
5 weir, and then we have pumps that pump. If the water
6 level drops a certain distance, then the pumps will pump
7 the water back into the canal if it's short of water.
8 One of the systems that you have that goes through the
9 middle of one of our ponds.

10 This is just a picture of a ditch tender out in
11 the field, it didn't come out too good, but this is a
12 typical turnout structure. It's a concrete structure
13 with a gate that's a 18-inch valve and the ditch tender
14 or the farm irrigator will open that gate, and then the
15 ditch tender every single day, every gate that is open
16 and running water, comes and measures water, either at
17 the gate itself by the gate opening and the head
18 differential across the gate, or we have an actual
19 propeller meter. In about a third of the locations, we
20 have about 580 turnouts, and about a third of those now
21 have propeller meters. I didn't get a picture of a
22 propeller meter, but it's a pretty simple common sense.

23 In each canal, every single road crossing that
24 we have where there's a -- you know, it's the inverted
25 siphon going under the road we have to have a trash

1 screen. This is a new one that was installed, and
2 normally during the year early in the season, a whole lot
3 of tumbleweeds, especially close to town where there's a
4 lot of -- especially now because they had a whole lot of
5 stuff with road put in, infrastructure put in, but no
6 houses, and tumbleweeds are growing, so they just blow
7 all over because there's no houses that have been built
8 yet and we have a lot of problems with plugging. You
9 have to observe those every day.

10 Again, we have 50 miles of pipeline. This is a
11 30-inch pipe, and you can see that it has -- usually they
12 will have cracks about every 10, 11 feet on the sides,
13 and then this one actually has lateral cracks on the
14 sides too. Every year we're inside these. One of the
15 things that we'll be talking about it is these pipelines
16 and where the railroad is going to cross them and the
17 vibration and how far do you guys say you're going to
18 replace the line, because we're concern, you know, that
19 vibrations --

20 MR. ABERCROMBIE: Yeah, we would want to replace
21 that too.

22 UNIDENTIFIED SPEAKER: What's the typical size
23 of those?

24 MR. WELCH: It ranges from 52 to 18. That's a
25 30-inch line right there. A man would actually crawl --

1 MR. ABERCROMBIE: Not down the 18s.

2 MR. WELCH: No, no, down the 30s.

3 MR. ABERCROMBIE: Down the 30s, got you.

4 MR. WELCH: And not a man my size, but a smaller
5 guy. I used to be able to crawl --

6 MR. ABERCROMBIE: Well, Caltrans uses lots of
7 cast-in-place pipe, you know, that is -- and that's it,
8 you know, 30 and bigger.

9 MR. WELCH: And the pipelines that we have are
10 what you'd call a semi-closed pipeline, because at the
11 grade -- the water level control in the pipeline is
12 controlled by boxes like this. About every quarter of a
13 mile there's a box, and water actually comes up, goes
14 over a weir and then back down.

15 MR. ABERCROMBIE: Just like an open canal.

16 MR. WELCH: Just like an open canal,
17 essentially, because the pipe, you know, by the time you
18 got five miles down the pipeline you'd have 27 foot of
19 head, and this pipe can't handle that kind of head, and
20 so we'll have one of those. And those have to be
21 adjusted every single time somebody makes a change in the
22 flows. Okay. So damage to facilities --

23 BOARD MEMBER UPTON: Can I say something here?
24 Question for the FRA, Corey, in your process of
25 coordination or "We're reaching out to people," I didn't

1 notice anything on the FOIA request where you checked
2 with the Bureau Reclamation as far as water districts and
3 existing facilities; is that true or not?

4 MS. DUMOND: This is Melissa Dumond with FRA, I
5 don't think I heard your question totally, but we have
6 worked with the Bureau of Reclamation In fact, we have
7 regular federal family meetings, and we're also
8 coordinating with them as a potential cooperating agency
9 on the environmental documents at the project level.

10 BOARD MEMBER UPTON: You are aware that the
11 federal, the state and the local and the farmers have
12 spent, in the Central Valley project here, billions of
13 dollars to give us the existing infrastructure that
14 supports the agriculture industry here in the Central
15 Valley allowing us to be one of some of the most water
16 efficient and highly productive farmers in the world.
17 And is it your view that your project should be
18 compatible with our existing infrastructure or not?

19 MS. DUMOND: Well, we are assessing the impacts
20 to the irrigation project that exists in the Central
21 Valley.

22 BOARD MEMBER UPTON: Okay. So you haven't done
23 it yet, you're still assessing it?

24 MS. DUMOND: Well, the environmental document is
25 in process. I'm not quite sure whether you're asking me

1 for a personal opinion or --

2 MR. ABERCROMBIE: Well, I think the other -- one
3 of the things we -- I mentioned a little bit earlier, but
4 in terms of timeline, but most of the district is within
5 the Wye section, and since we've put off that decision in
6 terms of what we have and what may happen in terms of
7 what opportunities are available to improve where they
8 are located right now, you know, we've got to kind of go
9 back to Square 1 with regards to what facilities may or
10 may not be actually hit. I mean, we started with these
11 lines, you know, and the fortunate thing, from being able
12 to have people like Kole and other people who said, you
13 know, you got to go study 152, you got to go improve this
14 area, you got to go do these things, we were able to
15 construct a mechanism to take the time to do that in the
16 detail -- in additional detail and incorporate it into
17 that San Jose to Merced document. So I think the outcome
18 here is that all of these things that you want to bring
19 up and the facilities that you have here, we want to hear
20 which ones we're hitting, how -- what we intend to do
21 about it, or, you know, where you think it would be best
22 moved to, you know, within the realms of what these Wyes
23 so that we can minimize any impact, minimize the cost to
24 the state for having to replace any of these things or
25 rebuild any of these things, you know, in the long run.

1 So -- at least that's the way I see what we've got to
2 take care of here today.

3 BOARD MEMBER UPTON: Okay. That was probably
4 true two years ago, a year and a half ago, but I think
5 this board now is in a position of opposition to
6 High-Speed Rail going through our district, because if
7 impacts one, it impacts all of us. In fact, we have a
8 meeting on February 21st to tell our landowners if they
9 want to be assessed \$22 an acre so that we can buy out
10 basically the project so that now we own it.

11 MR. ABERCROMBIE: Oh, you mean the Chowchilla
12 infrastructure?

13 BOARD MEMBER UPTON: The Chowchilla
14 infrastructure. And we don't want to be false pretenses
15 to our constituents by saying "Okay. We want you to buy
16 this," then find out they bought a pig in a poke, that
17 the rail project is going to run helter-skelter no matter
18 where it goes and adversely impact our facilities. So
19 that's -- that was my question.

20 My second question is: We keep hearing that
21 you're going to start in the Central Valley somewhere,
22 and I've heard Merced, we've heard Chowchilla, we have
23 Madera, but now you're saying our area in the water
24 district has been transferred to the Wye. So where
25 exactly are you going to start in the Merced to San Jose

1 area?

2 MR. ABERCROMBIE: Let's see here if I've got
3 that particular question in this lines here that --
4 what -- I was here in November and we talked about what
5 the hybrid was. That document in the Merced to Fresno,
6 that that was the preferred selection. That EIR doc we
7 had -- the final EIR doc for that we had anticipated
8 would be out by now. It's going to take another several
9 weeks until we get that completed, and it will come out
10 and we anticipate that will be at the board, instead of
11 March, it will be at the board in May, meaning our
12 High-Speed Rail. That will go to the board and then
13 subsequently FRA for record of decision, notice of
14 determination. Once that is done, then we can start
15 really buying property, entering into negotiations with
16 regards to mitigation of individual property owners.
17 We're precluded from doing that until we have an EIR
18 document. So in that timeline, then we can begin right
19 away, we will be securing contractors to do work. The
20 initial construction section extends from Madera Acres,
21 roughly Avenue 17, and it gets to the point we picked,
22 right?

23 MR. WENZEL: Right, yes, correct.

24 MR. ABERCROMBIE: And then it goes down all the
25 way towards Bakersfield. That's what we call the initial

1 construction section. That has multiple contracts in it,
2 though. They look at four specific contracts that will
3 be building the roadways, you know, building the
4 embankments, the bridges, realigning whatever utilities,
5 facilities that are, you know, impacted it, whether it's
6 in the City of Fresno or out here. You know, in the
7 Madera Irrigation District we'll be impacting some of
8 those. The first contract that we hope to have -- a
9 major contract that we hope to start with that is -- goes
10 from, again, Avenue 17, Madera Acres, towards the Fresno
11 station and includes the Fresno station. Actually, for
12 the purpose of design features, because we don't want to
13 end up with the track not aligning each other, and as we
14 leave Fresno, we have a large curve that needs to be
15 taken into -- I want to make sure that's it's accounted
16 for, should we need it. That that's first contract.

17 The second contract goes from there south to
18 about Corcoran. The third goes from Corcoran down to
19 just a little bit north of Shafter. And then the one
20 after, the fourth contract goes from there towards
21 Bakersfield. And the fifth contract is for track. Now,
22 there will likely be other smaller contracts.

23 So where we anticipate to start is with a very
24 small contract first in Fresno to do Fresno undercrossing
25 as a design bid build, and that we hope to have out this

1 summer. Again, provided we have the final EIR/EIS for
2 Merced-Fresno, because we have to have that before we
3 build. The major design bid build contract we hope to
4 have signed by the end of the year, and then that work
5 will take place beginning with Section A of Contract 1,
6 which is essentially urban Fresno. Section B of it is
7 from the San Joaquin River towards the north towards
8 Madera Acres, Avenue 17. And the third one, should we
9 choose to do it, Part C, and I'll clarify why we choose
10 to do it, basically it goes from the station through that
11 big curve south. All of that is dependent -- everything
12 south of the Fresno station is dependent on the second
13 document that we have. That second document should be
14 out this spring in draft form, and we hope to have a
15 record of decision and final EIR on that one late in the
16 year.

17 Trying to be more specific, where we're going to
18 start construction is Fresno with Part A of Contract 1.
19 And then we have Part B, which would go from the river
20 north to Madera Acres and we would then proceed south.
21 The second contract, once we have a Fresno-Bakersfield
22 EIR, continues south.

23 BOARD MEMBER UPTON: That's -- I want to thank
24 you, Jeff, that's a very thorough explanation. That's
25 probably the best explanation I've heard of actually

1 where you're going to start. It helps this board to know
2 what the overall view is when we're trying to look at it
3 as directors of this district.

4 I have a couple more questions, Doug.

5 MR. WELCH: Okay.

6 BOARD MEMBER UPTON: One is to the FRA. It's
7 our understanding that the FRA's demand or request is
8 that the High-Speed Rail project in California must start
9 in the Central Valley in order to receive the \$3.3
10 billion stimulus funds. Is it also a requirement that
11 all 3.3 billion be spent in the Central Valley, or does
12 the High-Speed Rail Authority have the ability to
13 transfer some of those funds to the end points, as long
14 as some of the money is spent in the Central Valley?

15 MS. DUMOND: This is Melissa again. We did
16 that -- we worked with the California High-Speed Rail
17 Authority through our competitive application process, or
18 HSI, our High-speed Intercity Passenger Rail Program, and
19 the Central Valley was the section that was most ready to
20 start, and it did receive the majority of the funding
21 that went to the State of California for the initial
22 construction section. There is additional funding that
23 has been provided to the northern section, and we're
24 looking into opportunities for funding in the southern
25 section as well to address the concern that's been raised

1 about funding in the north and the south in the bookend,
2 so to speak. I will note that we are an inner city
3 passenger rail agency, so we can't fund commuter
4 projects, but we can, and we have tried very hard, to
5 look for mutually beneficial projects that are along the
6 High-Speed Rail alignment that we can fund that we can
7 work on early as investments.

8 BOARD MEMBER UPTON: Is there a minimum
9 threshold for the Valley? In other words, could Jeff
10 say, "Okay. We want to spend a billion dollars in the
11 Valley, but we want to spend \$2.3 billion on the end
12 points," is there a minimum threshold for that or not?

13 MS. DUMOND: I wouldn't say there's a minimum
14 threshold. We have cooperative agreements with the
15 High-Speed Rail Authority, and we've got, I believe, 3.2
16 billion set aside for construction in the Central Valley,
17 so that's what those funds are dedicated to.

18 BOARD MEMBER UPTON: Last question for now.
19 Independent utility, is that still -- could you define
20 that, and is that still in play in the Central Valley?

21 MS. DUMOND: Sure. We issued an interim
22 program guide that gave a definition of independent
23 utility, and I'm not sure that I'm going to get it word
24 for word here, but the concept is that we are able to use
25 the infrastructure and it doesn't set aside those -- I'm

1 looking at the definition right now.

2 MR. ABERCROMBIE: Or looking for it.

3 MS. DUMOND: We want to be able to use the
4 initial construction segment. If there's additional
5 funds for High-Speed that's devoted to the construction,
6 it was -- it's sort of added onto the infrastructure
7 that's going on in the Central Valley in a logical
8 fashion. If there's not or if there's a gap in between
9 funding, then we want to be able to use the
10 infrastructure. And that's the concept of independent
11 utility.

12 BOARD MEMBER UPTON: That's the way I understood
13 it. So this would be used for the current Amtrak system;
14 is that correct?

15 MS. DUMOND: Amtrak is the current -- the San
16 Joaquin is currently run over that section in the Central
17 Valley, and that is a concept that we could pursue, which
18 is the Amtrak -- or the San Joaquin running over the new
19 infrastructure.

20 BOARD MEMBER UPTON: So that would be from
21 Bakersfield to Merced?

22 MS. DUMOND: Yeah, or it could be bigger than
23 that. The idea that the FRA supports is we want to make
24 sure there's network integration and make sure that it
25 benefits the network.

1 BOARD MEMBER UPTON: Okay.

2 MR. ABERCROMBIE: I don't think from the
3 authority's perspective, while we're working with
4 Caltrans who operates the San Joaquins and whatnot, you
5 know, the -- if and when we get there, that agreement
6 hasn't been made, so, I mean, as Melissa pointed out, it
7 is a concept, and that's one way to do it. It could be
8 that we not necessarily, and I do this in terms of
9 clarification, move the San Joaquins from the BNSF onto
10 our system in total or anything, or whether we're talking
11 about additional service that would use this facility.
12 So it's undetermined specifically on how that might look,
13 but the point is is it can be done, and that was part of
14 the criteria that the FRA put on.

15 Melissa, can you clarify something for me? Not
16 all of that 3.3 is ERA funds, there's about 300 million I
17 thought was non-ERA; isn't that correct?

18 MS. DUMOND: It's actually -- let's see. It's
19 over 900 million, it's almost a billion that's FY-10
20 appropriations money that's -- it's separate and distinct
21 from the American Recovery Act Fund.

22 MR. ABERCROMBIE: You know, for the people here,
23 I don't get to look at all these contracts and whatnot,
24 but is that tied to the same use in the Valley? And I'm
25 just kind of -- because I know we've talked about, like

1 you said, there are monies that, you know, are a little
2 more flexible, and I don't know if those are the monies
3 that, and I don't want to make the assumption, and I know
4 in newspaper reports sometimes they get it wrong, but is
5 that 900 million earmarked like the ERA?

6 MS. DUMOND: It's in a cooperative agreement
7 with FRA and it is dedicated to the Central Valley.
8 There is a small portion that's going toward the
9 peninsula area. Yeah, I think -- yeah, that's all of it
10 of the FY-10 fund, so it is primarily dedicated to the
11 initial construction segment.

12 MS. BYFIELD: Mr. Chairman, this is Margaret
13 Byfield.

14 BOARD CHAIRMAN MADDALENA: Margaret, can you
15 speak up?

16 THE COURT REPORTER: I can't hear her.

17 MR. ABERCROMBIE: You really got to speak up,
18 Margaret.

19 MS. BYFIELD: Would it be possible if we could
20 get a copy of the interim program guide policy that the
21 FRA just spoke of on independent utility that the FRA
22 just spoke of, their definition?

23 MS. DUMOND: Sure. Absolutely. Who should I
24 send that to? Doug?

25 BOARD MEMBER UPTON: Yeah, send it to Doug here

1 at the water district.

2 MS. DUMOND: Okay. Absolutely.

3 MR. WELCH: On damage to facilities, I'd like to
4 point out that at the beginning of the California
5 High-Speed Rail outreach, for some reason they reached
6 out to cities, counties, everybody but irrigation and
7 water districts, because if you look at all the different
8 meetings that they had, they had multiple meetings with
9 all kinds of government organizations, there were no
10 meetings with water districts or irrigation districts.
11 Why, I have no clue, other than it didn't seem that they
12 knew that those facilities existed. In fact, when
13 talking to some of the subcontractors or contractors that
14 High-Speed Rail had hired they said, "Well, aren't those"
15 -- "the city is responsible for those." I said, "No, the
16 city" -- you know, they're thinking the City of
17 Chowchilla has pipes that goes to the houses and then to
18 the rest of the farming community. I said, "No, they're
19 absolutely separate." All the way down the San Joaquin
20 Valley you're going to find farming districts that have
21 irrigation canals and pipelines.

22 Anyway, we had some good meetings with Cort from
23 the -- with consultants, also some discussions that I
24 just didn't believe, that the statements that they made
25 were made with a wink and a nod. For instance, when I

1 asked about access to our facilities, he says, "Oh, we'll
2 make you an overpass or an underpass." And reference was
3 made, you know, like on Highway 80 you're on your way to
4 Reno, and there's undercrossings underneath the freeway,
5 this is like every five miles. Chowchilla is only 12
6 miles by 14 miles. Also, was at meetings where I met
7 with them and they were talking to farmers and told
8 farmers, "Yeah, we'll give you access from one side to
9 the other, we'll make an overpass." I told them "If you
10 believe that, there's some swamp land in Florida I'll buy
11 and I'll sell it to you, because they're not going to do
12 that." I mean, it's absurd. In fact, in your draft EIR
13 you talk about the closure of roads and you say that it's
14 insignificant, the impact on farming. I suppose you'd
15 also considered that to be insignificant to the
16 Chowchilla Water District, because you had said you were
17 going to provide facilities from one side to the other
18 and, in fact, you don't.

19 Anyway, to the actual facilities. There's
20 references in Section 3.6 to canals, moving canals.
21 There's references to -- you know, this is the section on
22 utilities, providing a steel carrier pipe for -- you
23 know, to get conduits from one side to the other. It
24 really doesn't address canals themselves. I had meetings
25 with, you know, AECOM consultants, and they said, you

1 know, we're going to build a bridge. It doesn't say that
2 in the draft EIR. They said we're going to build a
3 bridge over a canal, because I told them there's a lot of
4 places where a box culvert would not work, because
5 there's no head to be -- unless you want to replace the
6 canal for five miles that's just pretty much dead flat,
7 you're going to have to put a bridge, because we can't
8 afford any head loss through a box culvert. I don't see
9 that in the draft EIR at all as far as how you're going
10 to take your facilities from one side of our canal to
11 another. What's the plan?

12 MR. ABERCROMBIE: Well, I'm a little confused,
13 because you make reference --

14 MR. WELCH: You have references in the draft EIR
15 to a steel carrier pipe that's not a canal.

16 MR. ABERCROMBIE: I got you. Now, you started
17 with that, you know, that there were no meetings, but
18 then you talked about meetings that you had, so I'm
19 trying to get a little verification of that --

20 MR. WELCH: Right, there were no -- we went to
21 meetings, open house meetings, started talking to them,
22 "Hey, you guys haven't come and talked to us, what's
23 going on?" And all of a sudden it's, "Oh, geez, you mean
24 there are canals and" --

25 MR. ABERCROMBIE: Then I'll beg to differ in the

1 sense that we have a couple of documented meetings with
2 you and --

3 MR. WELCH: After that you met with us.

4 MR. ABERCROMBIE: Dating back September 24th,
5 2009, you met with an AECOM representative.

6 MR. WELCH: Yes.

7 MR. ABERCROMBIE: You know, so not having it in
8 terms of time frame when you said open forum or not open
9 forum, and in those he gave -- his -- what I understand
10 he talked -- had probably a fairly extensive conversation
11 about you -- I think bridges were one of the things
12 mentioned, besides having many of these things lined and
13 so on. So, you know, I want to clear up that we
14 didn't -- the statement that we did not meet with you, I
15 think we have.

16 MR. WELCH: No, initially you didn't meet with
17 us. You had all these other meetings, and we went to
18 some of your open forum meetings.

19 MR. ABERCROMBIE: I understand an open forum
20 meeting has a value, and that's totally different than
21 sitting one on one and talking, I totally get that.

22 BOARD MEMBER UPTON: Let me support what Doug is
23 saying here, because I got involved in this, because we
24 went to a meeting and all of a sudden I find out all
25 these things are happening. I went to the Merced

1 meeting. I went to the Madera meeting. They had an
2 engineer at that time, I believe his name was Ken Islack.
3 What was your predecessor's name, Dick?

4 MR. WENZEL: Sislack.

5 BOARD MEMBER UPTON: Sislack, who promptly in
6 Madera chewed my butt out for even bringing up things.
7 Well, eventually he ended up getting fired, because he
8 also gave grief to the chairman of the authority. It's
9 one thing to give grief to a nobody farmer, but when you
10 give it to the authority chairman you probably got a
11 short life span with the authority, which he did. And
12 you can check with Carey Bowen, your predecessor, that,
13 in fact, they did not have any outreach to water
14 districts, resource conservation districts. They did not
15 understand the rural environment that we have here. Now,
16 the City of Chowchilla, for reasons that are a mystery to
17 me, they have been put up on a pedestal ever since this
18 thing happened, and their view counts more than anybody
19 else, and why that it is, I don't know, but it is what it
20 is. So what you need to know is the city is actually
21 part of the water district. We're responsible, they vote
22 in our elections. Anyway, what Doug is saying, though,
23 is that there was no outreach. And then, you know, I
24 don't want to insult you, but then to have the audacity
25 to say we did meet with you. Well, purpose of meeting is

1 to listen, to have input. I'll be damned if I can tell
2 where you people have listened in some cases. I mean,
3 you know, it's two years we've spent talking and working
4 and yet -- and that's why this board is in a position now
5 the same as Madera County. We've had it, you know, you
6 guys want to go somewhere else, hey, great, go somewhere
7 else. But if you're not going to listen to us and you're
8 going to impact your constituents, we don't have any
9 choice, we have an obligation to them, we're going to
10 have to fight this thing. So let's not revise history by
11 saying, well, yeah, we met with you.

12 MR. ABERCROMBIE: I would love to stick with
13 what we've got to do here forward than, yeah, talk about
14 the past, because --

15 BOARD MEMBER UPTON: Well, the past is
16 important.

17 MR. ABERCROMBIE: Well, no. Essentially, from
18 this point forward, I think the past is irrelevant,
19 because we have the opportunity to make sure that what
20 you're concerned about is clearly addressed. We have a
21 document that has -- that this gets to be put into in
22 terms of -- that is responsible for the impacts it's
23 going to be in San Jose to Merced to make sure that what
24 wasn't done, in your eyes, is done now. And so, like I
25 said, and I mentioned it a little earlier, the idea that

1 you wanted us to talk one on one, we're here to do that,
2 and we're here to make sure that, you know, the weirs,
3 the grates, the culverts, the pipes, you know, whether
4 it's RCP or, you know -- reinforced concrete, which is
5 what we'd want to, you know, replace anything that
6 happened to be underneath us, for your protection, our
7 protection, everybody's. You know, that's a win-win.

8 BOARD MEMBER UPTON: So you're saying there is a
9 new approach?

10 MR. ABERCROMBIE: Certainly, and if you've --

11 BOARD MEMBER UPTON: It's not just me saying
12 this, because you can quote in the Fresno Bee your
13 chairman, Dan Richard, "All three of us are dealing with
14 a history here that has not been good." Okay? "A
15 challenge made greater by Richard called the authority's
16 'ham-handed' discussions with worried landlords." That's
17 not me saying that, that's your boss.

18 MR. ABERCROMBIE: I agree. In fact, I wanted to
19 bring that up, because that is what the theme is. And I
20 went around with Dan Richard last week a little bit. I
21 was with him earlier this week, you know, to hear what
22 he's charging the authority with in terms of, you know,
23 being out here and doing these things. So, yeah, I mean,
24 when LaHood was out here, he made a similar type of
25 statement, is we're here to get a project done,

1 obviously, but you have to go mitigate -- you know,
2 whether it's a business owner or a farmer, you've got to
3 go make things whole, you got to do it right.

4 BOARD MEMBER UPTON: Okay. That's great,
5 because he says "I'm extremely unhappy with the kind of
6 approaches that have been made to farmers and business
7 people along the potential alignments. Those have not
8 been right or fair or just." So, know, if we have a
9 change in attitude, and it reflects a change in approach
10 and we get some takeaways, that's fine. If this is just
11 putting lipstick on a pig, that don't work for us.

12 MR. ABERCROMBIE: I've worked with you for a
13 year, Kole, am I trying to put lipstick on a pig?

14 BOARD MEMBER UPTON: I don't know.

15 MR. ABERCROMBIE: Okay.

16 BOARD MEMBER UPTON: Time will tell.

17 MS. BYFIELD: Mr. Chairman, may I ask a
18 question?

19 BOARD CHAIRMAN MADDALENA: Go ahead.

20 MS. BYFIELD: This is Margaret Byfield. I
21 completely agree with, you know, part of what needs to
22 happen is this is a good opportunity to move forward, but
23 I think the point that Kole is trying to make is that
24 because the water issue and the ruling have not been
25 taken into account in the detail that they should have

1 been taken into account early in the process that is
2 required by NEPA, it changes every decision, it changes
3 every alternative, because you can't sit back and say you
4 did a real sufficient environmental impact statement if
5 these very significant issues, which could influence
6 actually where you even put the Wye, whether it be in the
7 Chowchilla area or even other places in other cities.
8 But because their issues weren't taken into account early
9 on in the process, those never -- their concerns were
10 never taken into account in a way that could really allow
11 you to do redirect alternative comparison (inaudible) --

12 THE COURT REPORTER: I'm sorry, I can't hear
13 with the rustling.

14 BOARD CHAIRMAN MADDALENA: Margaret.

15 MS. BYFIELD: (Inaudible) taken into account
16 early in the process. So while I think there are
17 opportunities to move forward, I think it's real
18 important for the authority and for the FRA to understand
19 that that's part of the reason why the document is
20 insufficient.

21 MR. WELCH: Okay. We'll -- moving on here. You
22 met with AECOM, Ken Swanson, in fact, and I've known Ken
23 a long time and he's been at other engineering firms, and
24 I asked "How are you going to cross a canal?" He said,
25 "Well, we can either put a siphon in, an inverted siphon,

1 box culvert or a bridge." And he's pretty familiar with
2 our system and the fact that there's not a lot of change
3 in grade in some places, and so it's necessary to put in
4 bridge. There's nowhere in the draft EIR that you
5 anything about you're going to put in a bridge over a
6 canal. In fact, you referred to -- it's in the utilities
7 section, when you're talking about, you know, you'd put
8 in a steel pipe to get the utility from one side to the
9 other.

10 MR. ABERCROMBIE: Uh-huh.

11 MR. WELCH: The thing that causes me great
12 concern is that I asked questions also about access from
13 one side to the other, and he said, "Definitely we'll be
14 putting in some type of a crossing for you to get from
15 one side of the rail to the other." And I looked Ken in
16 the eye and I said, "Ken, I don't believe it." He said,
17 "Well, that's what they've told us we're going to do."
18 That's also not in the draft EIR. So what is it that
19 you're planning to go as far as crossing one of our
20 canals to allow our water to get from one side of the
21 rail to the other?

22 MR. ABERCROMBIE: Bring it back and forth a
23 little bit. You know, I think really it's going to --
24 whatever my answer is here it really is going to boil
25 down to two things. One is what it takes to keep your

1 water flowing. And one of the things that Ken noted and
2 we -- what he didn't finish with you, and I have no idea
3 why, was a spreadsheet that was supposed to talk about
4 capacities, cue flows or whatnot, and I'm not a water
5 guy, so please forgive me if I'm using the wrong units or
6 whatnot. But, I mean, that's generally what's going to
7 dictate some of that. And you mentioned very well there
8 are other -- that if you can't tolerate the head, then
9 you have to provide the appropriate engineering solution
10 and if that's so -- and if the appropriate engineering --
11 obviously, we're going to want to do what is the least
12 expensive, but if the least expensive doesn't work, you
13 have to move up to something else. So you would do it
14 with a pipe if it's a small facility and it meets the
15 demand that you guys need. Could be -- and it would be
16 reinforced concrete. If it's a bigger flow that you
17 need, your bigger canals, we would naturally want to go
18 to a box culvert. But in the situation that those don't
19 work, you know, we would probably -- again, whatever that
20 solution might be, because, you know, I would imagine
21 you're sensitive as well to what that bridge would look
22 like in terms of what goes in the canal, you know, into
23 the cross-section of the canal and the span and whatnot.
24 So we would have to look to see where that is, as well as
25 there certainly might be opportunities that that would be

1 looked at from an engineering perspective of shifting it.
2 If it's straight across perpendicular, obviously, you
3 know, that's totally different in aerial, but -- excuse
4 me, when it's perpendicular shifting it doesn't
5 necessarily make a difference. So any one of them, and
6 you've got a number of different facilities, so there is
7 no one solution that I can tell you right here right now
8 what it would be. In terms of crossings, you know, the
9 authority has taken the stance that we're providing a lot
10 of road crossings, and everything in between is part of
11 the negotiation from kind of the right of way standpoint
12 of it, especially if this was with regards to a farmer,
13 it's a compensation issue. Do we pay him the
14 inefficiencies for driving around, or do we spend the
15 money to build him a culvert underneath that he can cross
16 the rail on or an overhead. Do we build one overhead and
17 an easement so that three or four farmers can use it
18 versus one farm and we build two. All of those are
19 looked at, really, from the idea on the right of way
20 point of it, because it's a compensation issue. And to
21 some extent, you know, that is not where we're at, you
22 know, with the water districts as well. That's a
23 negotiation that's done, you know, not unlike Caltrans,
24 and based on my Caltrans past, I was looking up here at
25 the -- I printed it out and I was looking at it, but

1 Caltrans has a standard agreement, and we've just
2 recently got our -- the authority's group underway that
3 will be working to write these agreements, agreement with
4 you in terms of the water district, in terms of, you
5 know, PG&E, in terms of the City of Fresno and all of
6 them about how the plan checks are going to be done and
7 how that's paid for, or if there's redesign costs how
8 that's going to be paid for, as well as the construction
9 cost. And then the freeway agreement up here for the
10 Plainsburg work that Caltrans is doing. You know, they
11 have canals that they're moving around. They have -- you
12 know, an MOU or agreement contract to pay for engineering
13 design and they have a contract to pay for the work any
14 of the other physical infrastructure has to be moved. We
15 are bound by the same types of, you know, California laws
16 that we have to be doing the same thing.

17 So it's really now the process of getting to the
18 details, and one of things I opened up with was in the
19 situation that we are here, the idea that we've taken any
20 of the impacts that are in the Wyes and have the
21 opportunity to, not just look at the impacts from the
22 standpoint what we have to do about them, but change the
23 impacts by moving the lines north, south, east, west X
24 amount, you know, the whole discussion, you know, what's
25 in the Merced to Fresno document may or may not be

1 applicable, because it's now being studied in the San
2 Jose to Merced and we have an opportunity to move those
3 lines. And that's what I've been trying to work with the
4 City of Madera, the Madera Farm Bureau and a few other
5 people to get that off the ground, because what I would
6 like to see happen between now and, essentially, June is
7 spend these two or three months trying to refine those,
8 trying to determine what other alternatives ought to go
9 into the San Jose to Merced document so that they're
10 properly and thoroughly studied and then -- you know,
11 that's what I see this meeting as an opportunity for.
12 I'll just throw one out. You know, I know -- you know,
13 in trying to make the existing alignments more palatable,
14 and I know you mentioned the City of Chowchilla carries a
15 lot of weight, our CEO and our board members have met
16 with them a couple of times recently, but they were both
17 very clear to the City of Chowchilla is, you know, "I
18 know you may not like some of these, but in the process
19 of evaluating them, because we're bound by the laws that
20 require it, we're not just going to pull it off, you have
21 to look at those." And he urged them to put in the
22 constructive input to make whichever ones, even if they
23 don't necessarily like them a lot, how to make them
24 better and that much more -- well, as Kopshever says,
25 making lemonade out of lemons, and he said it actually

1 more daggerish than I did, but the idea is what can we do
2 to improve it. West Chowchilla design option, right now
3 it's not on a county road. Would it make a difference if
4 it was moved from where it's at now to Road 13?

5 BOARD MEMBER TAYLOR: Didn't Chowchilla take the
6 position they didn't want it in their city limits?

7 MR. ABERCROMBIE: They still have that position.
8 I mean, but what we told them, we were very clear, it was
9 very clear and the board members were very clear is "You
10 may not like it, but work with us to make it so that when
11 we're done, if that is the one selected, that you have
12 things in there so that you have benefit of it as well."
13 I mean, that it isn't all bad, all impact and the goal is
14 to, you know -- if -- you know, taking the through
15 Chowchilla one, they talk about the city being divided,
16 and I can appreciate it and in some ways, you know, I
17 have a hard time understanding it, because the city is
18 already divided by UPR. Personally, I see a benefit
19 there if we could be along UPR you could have
20 overcrossings there. I mean, overcrossings are an
21 impact, too, but you would no longer have traffic waiting
22 at Robertson and 24th, for example, where those present
23 gray crossings are, and it's a safety thing too. But
24 what other things might even be available, you know, in
25 terms of how it's done and, you know, they have the big

1 plans to develop between Chowchilla Boulevard and the
2 freeway. Well, if we happen -- if the alignment we could
3 make work was along Chowchilla Boulevard, you know, that
4 new development needs that new road. So if you move that
5 over, would that be a benefit? But those are the things
6 that you want to discuss to find out what works and what
7 doesn't work. And if they as Chowchilla, the City of
8 Chowchilla, can say "Well, these things would make it
9 better. We don't like it and we're going to fight
10 against it." Great, I understand that, that's part of
11 the process, but then you're able to at least find
12 something that they can benefit from in the process, as
13 well as everything else that they don't like.

14 BOARD MEMBER UPTON: We understand that they
15 want 21, is what they want. And the thing that always
16 baffles me, I guess, is that a lot of these are not even
17 within their jurisdiction. I mean, the mayor proposed a
18 maintenance facility next to my place in a different
19 county, for goodness sakes, and the High-Speed Rail
20 accepts that. So you begin to wonder, you know, what's
21 going on.

22 Let me ask a question of you and the FRA.
23 You're talking about what routes would we be satisfied.
24 Now, the chairman was talking to the L.A. Times and he
25 mentioned that he would consider, I don't know if this is

1 true, would consider Altamont Pass as the east-west
2 connection, rather than 152, which connects in urban
3 areas, instead of going through a hundred miles of
4 farmland. Now, is Altamont Pass off the table, or is
5 that something that could be considered?

6 MR. ABERCROMBIE: The Altamont-Pacheco document
7 was done in 2008, Atherton and a few of the peninsula
8 cities sued, and it was redone in 2010 and they sued
9 again, though they won on only about two or three
10 relatively minor things from the idea of impact, you
11 know, that you did -- the authority, for example, did not
12 consider that when you do the High-Speed Rail in the
13 corridor up there, that if we move the freight trains to
14 the outside, rather than put a High-Speed Rail on the
15 outside, then the freight trains are 15-foot closer to
16 the houses, and that, as an example, I think was one of
17 them. So that's what we're going back and clarifying in
18 the document. So that document is open and it is open
19 until next week sometime for public comment. It's been
20 there. So that decision is presently open, presently
21 will be reevaluated that document. I think the authority
22 feels pretty good that, you know, that the first decision
23 was sound, but with public comment and with whatever the
24 conclusion of that lawsuit and what we're doing here in
25 terms of the revised EIR, we'll see what that is. I

1 don't know what the chairman's intent was, whether he was
2 referring to this document in the sense that's what
3 they're going back and relooking at. With regards to,
4 you know, do any of these impacts we're now studying
5 change the position, you know, we'll know in April or so
6 when it goes back to the authority.

7 BOARD MEMBER UPTON: But I guess what I'm
8 getting at, between you and the FRA, Altamont Pass is not
9 in the same category as I-5, because anytime you mention
10 I-5, they you say "No, you got to read the Ten
11 Commandments closer and I-5, you can't do that one." But
12 Altamont Pass is not that position, it is possible
13 that -- because that kind of thing where you take it
14 totally out of our area, as far as the east-west
15 connection, might be attractive to this board, just a
16 guess.

17 MR. ABERCROMBIE: Just a guess.

18 BOARD MEMBER TAYLOR: The city took the
19 position, I believe, that they didn't want it in their
20 city limits. And that's basically what we're doing, we
21 don't want it in the water district limits. And to put
22 it -- to ask us to put it over here or over here, we
23 represent all the farmers in the whole water district.
24 So to say that Route 1 is better than Route 2 or Route 3
25 or Route 4, then that's pushing it on one farmer and not

1 the other farmer. So we represent all the farmers
2 equally, so to choose one route over another one is
3 you're asking us to throw some of the farmers under the
4 bus, and that's really not acceptable.

5 MR. ABERCROMBIE: I'm not sure I asked you to
6 choose one route or another.

7 BOARD MEMBER TAYLOR: I thought that's what you
8 just said.

9 MR. ABERCROMBIE: Well, I didn't mean to
10 communicate it that way if that's what you heard.

11 BOARD MEMBER TAYLOR: If we'd prefer one route
12 over another.

13 MR. ABERCROMBIE: Well, ideally, yes. But I
14 think what I asked was is are there places -- well, the
15 example I gave was is right now the west Chowchilla
16 design line is at 13 3/4 or something, would it make a
17 difference to the impacts in terms of the Chowchilla
18 Water District if it was at Road 13 --

19 BOARD MEMBER TAYLOR: No.

20 MR. ABERCROMBIE: -- on the east side or the west
21 side.

22 BOARD MEMBER TAYLOR: No, it would still be on
23 one farmer or the other farmer, so you're asking us to
24 throw one farmer under the bus.

25 MR. ABERCROMBIE: I'm not asking about the

1 farmer, I'm asking about the district and the
2 infrastructure that the district has, because that's what
3 we're here to talk about.

4 MS. DUMOND: I just wanted to note that the
5 concerns that the Atherton community brought up, the
6 litigation that Jeff referenced, was on the CEQA side.
7 On the NEPA side, the record of decision for Pacheco or
8 Altamont was issued, although it's not in the same boat
9 as the CEQA decision, and we do stand by the Tier 1
10 decision.

11 BOARD MEMBER UPTON: So you would not be
12 interested in looking at Altamont Pass?

13 MS. DUMOND: We went through a legitimate
14 process to make the decision of Pacheco Pass, so there
15 would obviously have to be extenuating circumstances to
16 relook at any third decision like that.

17 BOARD MEMBER UPTON: Well, I would question the
18 word legitimate on that. But, nonetheless, I think we
19 ought to be looking at what is the best for the people of
20 the State of California and the most efficient
21 transportation mode and how it could be effectively
22 integrated with our existing infrastructure and not come
23 through here and destroying something that's taken
24 decades to develop in order to have a new project that
25 may or may not be viable.

1 MS. DUMOND: We would agree with you. We want
2 this to be a good process and one that includes your
3 input and is very sensitive to the needs of the water
4 district and the infrastructure that you've developed
5 thus far.

6 BOARD MEMBER UPTON: Okay. We appreciate that,
7 and I appreciate that attitude, because the approach a
8 lot of us have felt is that we've got a death sentence
9 and our only choice is we get poison or the guillotine.
10 So if we could back that up and maybe get a pardon and
11 start discussing things overall, and maybe with a new
12 chairman, maybe we can do that. And I assume the FRA,
13 then, it sounds like, would be willing to entertain new
14 ideas if the chairman and the authority came forth with
15 such.

16 MS. DUMOND: We definitely want to talk to you
17 about your concerns and any sort of idea that you bring
18 up, we're very open to that. I want to note, too, that
19 the Secretary of Transportation, Ray LaHood, was in town
20 last week and he made a point to meet with some of the
21 agriculture constituents. He came back and he had a lot
22 to say about what he heard from folks. He was very
23 receptive and he wanted to make sure that we were
24 building the system in a context-sensitive manner, and
25 certainly listening to the concerns of the agricultural

1 community and folks like yourself, the water districts,
2 and other folks.

3 BOARD MEMBER UPTON: I would be interested to
4 know who he met with, because I haven't talked to one
5 farmer involved in this that met with him.

6 MS. DUMOND: Well, I can't say I have a list of
7 participants, but I could try to get back to you on that,
8 on the folks that he did meet with.

9 BOARD MEMBER MANDALA: We haven't gotten an
10 answer on the road crossings, transportation across --

11 MR. WELCH: Well, that's another item on the
12 agenda, I'd like to -- so we've talked about canals and
13 whatever engineering --

14 MR. ABERCROMBIE: Yeah.

15 MR. WELCH: -- solution there is that's
16 acceptable, it may not necessarily be the least cost,
17 because if it doesn't get Chowchilla Water District what
18 they need, they may have to go to a -- for instance, if
19 you're going to put in -- you know, you say "Well, this
20 is a small canal, we'd like to not build a bridge, we'd
21 like to" -- because we're not going to be in the aerial
22 here, put in a box culvert," and if it takes concrete
23 lining, you know, back to a check structure and raising
24 the canal in that section, it's ten cents on the dollar
25 for what it would cost to build a bridge.

1 MR. ABERCROMBIE: Right. And I think
2 fiduciarily it would be appropriate to say "Well, if it
3 costs \$2 million to do the bridge and 500,000 to line the
4 canal" and do what you just said, which was Greek to me,
5 but do what you just said, then that's the proper thing
6 to do, provided it allows you to continue to do your
7 service that you -- you know, that you need to do. You
8 know, and I'll toss something out where you're concerned
9 about crossing the facility in terms of needing for
10 tender stuff. You know, a possible solution would be
11 some of those semi-automatic gates that you talked about
12 where you cut down the need to be in that area to some
13 extent. Those types of alternatives I think should be
14 discussed as well.

15 MR. WELCH: Unfortunately, there's a lot of
16 debris in the canals.

17 MR. ABERCROMBIE: I'm not saying it eliminates
18 it.

19 MR. WELCH: You have to still go and check those
20 out to make sure that they haven't caught debris in them.

21 MR. ABERCROMBIE: I totally understand. I don't
22 mean it eliminates it, it would potentially reduce the
23 frequency. But those are the things -- that's a new
24 piece for me, and that's tremendously innovative, you
25 know, for you guys to -- I mean, whenever you can do

1 that, you've just saved your constituents, you know, some
2 extra money, because, you know, it's less overhead that
3 you had to put into, you know, doing the things that you
4 do as a water district. One of the things that would
5 help us, and Sam is our lead engineer for this, I don't
6 know if you do the water, as well, but, you know, he
7 would be the gentleman that would lead some of this, or
8 David would, is the flows, you know, and making sure that
9 we've got an updated -- well, I don't know if you've
10 added to your system, but updated from the stuff that you
11 and Ken Swanson had kind of worked on back a number of
12 years ago. And then we can look at those flows and we
13 can understand which ones start to fall in the pipe
14 category, versus what falls in a box culvert and what
15 would have to be moved to something better than that
16 or -- you know, from that standpoint. I think that would
17 be a tremendous bit of information to update and share.

18 MR. WELCH: Can we talk about pipelines?

19 MR. ABERCROMBIE: Sure.

20 MR. WELCH: I told you the type of pipelines we
21 have. Has the authority or do you have access to any
22 studies that have been done as far as vibration of the
23 High-Speed Rail and its impact on the monolithic cracked
24 in-place pipe?

25 MR. ABERCROMBIE: You know, I'd have to ask the

1 RC's on it. You know, from my Caltrans perspective,
2 Caltrans mostly uses reinforced concrete, you know, in
3 the right of way and whatnot. The vibration for the
4 rail, you know, there is the technical study reports and,
5 you know, we look at it as not affecting things within
6 about a hundred feet, so that might be the threshold that
7 we -- you know, I'll ask you, Dick, in a moment, you
8 know, even that would mean that we would perhaps have to
9 replace that pipe past our right of way, you know, past
10 so that you're out that hundred, hundred and something
11 feet so you wouldn't be affected. And sometimes you
12 don't want to put a joint in the pipe there. You may
13 want to take it back to the next control box. I mean,
14 there's smart ways to do things, then there's a stupid
15 way to do things. You don't marry up and RCP and a cast
16 in place and have a joint that you're going to be screwed
17 with forever. So that wouldn't necessarily always be the
18 appropriate cut-off point, you've got to look at that
19 from a standpoint --

20 MR. WELCH: We absolutely know, because we have
21 done a lot of replacement with RCP, and if we don't do it
22 at a box, it's going to leak, either right at the
23 connection or just immediately upstream of it because of
24 expansion and contraction --

25 MR. ABERCROMBIE: They behave differently.

1 MR. WELCH: -- the RCP, it's different behavior
2 than the poured in place cracked pipe.

3 MR. ABERCROMBIE: Do we have, in terms of
4 studies, you know -- I mean, because this is a new
5 science, Dave, whether you can comment on it, or Dick,
6 you know, in terms of the document -- the guidance that
7 the authority has produced for you in terms of the design
8 team on how they've looked at that? Can you comment on
9 that for me, because I don't know the details on the
10 guideline that are there.

11 MR. LEVERENE: For San Jose to Merced, I really
12 can't comment on that specifically. It's one of a large
13 number of things that we should have looked at, I don't
14 personally know whether we have or not.

15 MR. WENZEL: I have to dig into it myself.

16 MR. ABERCROMBIE: But, you know, what we
17 discussed is is there are right ways and wrong ways to do
18 things, and like you said, you wouldn't want to -- you
19 recognize that you just don't chop it in the middle and
20 do it, you've got to take it back to a logical spot and
21 make the proper connections.

22 MR. LEVERENE: Can I add something, Jeff? It's
23 fairly straightforward to analyze the affect of the
24 vibration from the train. You can measure it on existing
25 high-speed lines where the soil conditions are somewhat

1 similar, and I assume there is such a location in the
2 world. You can also predict it with a knowledge of soil
3 mechanics and vibration technologies. I mean, it can be
4 predicted and then it can be validated as to whether
5 those predictions are correct. So understanding what the
6 affect of the vibration is technically not that
7 difficult, and can and should be brought into the
8 evaluation of how to mitigate the affect on things like
9 sewers. And not just sewers, if you run it by other
10 sensitive receptors that are sensitive to vibration it's
11 the same thing.

12 MR. ABERCROMBIE: Do you have -- what do you
13 do --

14 MR. WELCH: We don't have any sewer lines.

15 MR. ABERCROMBIE: I hope they don't mix.

16 I mean, we've got a freight rail out here right
17 now that runs within your district. How does your system
18 interact with that, or do you have any pipes under it?

19 MR. WELCH: It's reinforced concert pipe.

20 MR. ABERCROMBIE: And how far out to you go out
21 from this railroad?

22 MR. WELCH: It's going to be canal on the -- so
23 it's canal, reinforced concrete pipe underneath the
24 Chowchilla Boulevard, under the railroad, and then back
25 out in the canal on the other side.

1 MR. ABERCROMBIE: So you don't have any that
2 come out as cast in place offhand and then goes to RCP
3 and then back again?

4 MR. WELCH: We have cast in place, and then it
5 goes into reinforced concrete pipe, and then -- under
6 Highway 152, and then comes out into the other side. And
7 it routinely -- well, Ron, your place right there on 152,
8 it routinely breaks at -- you know, from the vibration of
9 the freeway.

10 MR. ABERCROMBIE: I mean, That would be a good
11 example to go back and look at and say on an engineering
12 basis what would we want to do from that similar
13 situation for ours, I mean, because we won't be much
14 different than the freeway.

15 MR. WELCH: This is outside of the right of way,
16 but for about, I don't know, 150 feet outside of the
17 right of way it keeps breaking on Road -- what is that,
18 15? 15 1/2? I mean, for about 150 feet it just keeps --
19 no matter what you do, until we replace it with RCP it's
20 going to keep cracking.

21 MR. ABERCROMBIE: I don't know if that was a
22 construction flaw to begin with or whether that's part --
23 obviously, the vibration aggravates it. Anyway, we would
24 be looking at those type of situations, and you have, I
25 think probably over the course of your district's life

1 have, you know, developed standards that you want to see,
2 and that's where we want to go in that sense. And, you
3 know, if we were Caltrans and we were doing this design
4 bid build it would be really easy, because you'd have a
5 set of plans to look at a hundred percent. In the design
6 bid build category, what we have to do is is construct a
7 document that says "Mr. Contractor, you're going to go to
8 the water district, here are their standards. You're
9 going to apply for a permit, you've got to meet those
10 standards and give them a design that satisfies them,"
11 you know, "we'll pay the time" and this, that and the
12 other. And that's your assurance that it's going to be
13 built right and designed right for anything that we
14 wouldn't otherwise design.

15 MR. WELCH: Where you cross one of our
16 pipelines, if you just do within your right of way, you
17 will be doing work on your High-Speed Rail, because the
18 ground will be saturated because our pipe will be broken
19 and the ground under your facility will be unstable, and
20 it will --

21 MR. ABERCROMBIE: Yeah, no, I mean, that's -- I
22 mean, it has to be replaced.

23 MR. WELCH: So you need to go further than just
24 in your right of way.

25 MR. ABERCROMBIE: No, and I -- I think that's

1 prudent.

2 MR. WELCH: Let's move on to onto regulating
3 ponds, one of the -- the Avenue 21 goes right through one
4 of our regulating ponds. I hope that you guys are going
5 to relocate it and relocate the pond immediately adjacent
6 to that area and make it work properly.

7 MR. ABERCROMBIE: No, I wanted the big map here.
8 For those on the phone, we're pointing to the map, please
9 pay attention. By the way, I got the City of Chowchilla
10 to say they could live with 152. They may not admit to
11 it, but they said it in front of me.

12 (Off the record.)

13 MR. WELCH: It's right where it crosses Road 9.

14 MR. ABERCROMBIE: And perhaps --

15 MR. WELCH: You can't see it, because it's over
16 the top of it.

17 MR. ABERCROMBIE: But this is it essentially
18 right there. And I apologize, I did that for my own,
19 because it helps me when I visualize it. But, yeah, we
20 would look to move it -- I guess in this particular case,
21 we would probably move it -- well, is your canal -- which
22 side is your canal on at this particular location?

23 MR. WELCH: The canal terminates right at that
24 point, so if we moved it north --

25 MR. ABERCROMBIE: So you could put it on the

1 north side and that should be sufficient. Yeah, then
2 that would be what we would need to do.

3 UNIDENTIFIED SPEAKER: Which one is that, Doug?

4 MR. WELCH: That's the Askew pond.

5 MR. ABERCROMBIE: Roughly on Road 9, you said?

6 MR. LEVERENE: That's a perfect example of what
7 you were talking about before, if there's a way that the
8 line can be adjusted one way or the other to reduce the
9 impacts --

10 MR. ABERCROMBIE: In that particular case.

11 MR. LEVERENE: -- that's what we'd want to do.

12 BOARD MEMBER MANDALA: Well, I'm like Kopshever,
13 I'd rather have it over here. See, this goes to
14 Kopshever's people and this goes to me. So I'm going to
15 be like Kopshever, I want it on 24, not on 21. That's
16 why Kopshever wants it on 21, he works for the people
17 that own property on 24, so -- you know, you guys got to
18 realize what's going on here, you know what I mean?

19 MR. ABERCROMBIE: I do.

20 BOARD MEMBER MANDALA: Okay.

21 MR. ABERCROMBIE: And that's why I thought it
22 was worth my time to make sure we got 152 back on the
23 table. Madera County just -- even in voting that they
24 don't like us, said, "We want it on 152," so, I mean --

25 MR. TAYLOR: There are landowners on 152 too.

1 MR. ABERCROMBIE: I know I appreciate it, I know
2 the FRA appreciates it. It doesn't matter where it goes,
3 somebody will be impacted by it. I-5, somebody would be
4 impacted on it.

5 BOARD MEMBER UPTON: Not a lot. Not a lot,
6 and plus --

7 MR. ABERCROMBIE: Altamont, somebody would be
8 impacted on it.

9 BOARD MEMBER UPTON: The advantage of I-5 is the
10 one farmer you have on your farmer committee, Mr. Diener,
11 has land on I-5. If he's so much in favor of it, let
12 them go through his ranch.

13 MR. ABERCROMBIE: That goes back for a while
14 too, but -- let me rephrase that. Yes, we would move the
15 pond, and I think that would take care that of question
16 for you, before we digress.

17 BOARD MEMBER TAYLOR: Once you pick a spot from
18 A to B and you chose to go through these farmers,
19 wherever it would be, if you picked a spot today, when
20 would the process be completed? Okay. For instance, if
21 Farmer A knows it's going through his property, is he
22 going to sit there forever with the handicap of knowing
23 it's going through his property? Even now that we've --
24 I've received multiple letters on all different types of
25 properties. I'm probably legally binded when I sell the

1 property to state that I have received something from the
2 High-Speed Rail saying, you know, in their wisdom they
3 may come through my property. So stating that now, but
4 when would the farmer be compensated, when would you
5 actually take possession of the land, how would that all
6 happen?

7 BOARD CHAIRMAN MADDALENA: That's down on the
8 agenda.

9 MR. ABERCROMBIE: I was going to say, do we want
10 to table that for a little bit? Let's table that for a
11 bit.

12 BOARD MEMBER UPTON: I have one question for the
13 FRA, since we're on there, the attorney there. They did
14 not comply with our request on the FOIA and they deleted
15 seven pages because -- on a draft report on the 152 Wye
16 design option, because releasing this report would cause
17 direct harm to the FRA. Could we expand on that a little
18 bit?

19 MR. VAN NOSTRAND: Yeah. This is Chris, I don't
20 have a lot in front of me, I apologize. During the FOIA
21 process, as you folks probably know, FRA does a record
22 search to identify those records that are responsive, we
23 believe are responsive to the request. After identifying
24 those records under both our FOIA regulations, as well as
25 DOJ guidance, we're responsible or required to provide

1 some of those records to other agencies who may have an
2 interest in the distribution. It was determined, with
3 respect to that record for the 152, that the release of
4 the records would cause direct harm to FRA, and was
5 deliberative -- under Exception B(5) as deliberative
6 internal agency records, because -- I mean, our essential
7 concern is that to the extent the record is developed by
8 the authority, we rely on an open and transparent process
9 between the authority and FRA, and to the extent that in
10 any way harms, we can't really implement the project or
11 oversee our grant.

12 BOARD MEMBER UPTON: Okay. Fair enough. It
13 said a search indicated FRA files do not contain a copy
14 of this final report, so I'd ask Mr. Abercrombie or
15 Mr. Wenzel could we get a copy of that, since it's in the
16 technical memorandum of the Merced to Fresno section,
17 could we get a copy of that, those seven pages?

18 MR. ABERCROMBIE: I don't know. I would have to
19 ask.

20 BOARD MEMBER UPTON: Could you check?

21 MR. ABERCROMBIE: I would be happy to ask. And
22 I would have to ask FRA, you know, you might need to help
23 guide me on this. If I heard Chris right, so correct me,
24 is it was a -- it's a draft report?

25 MR. VAN NOSTRAND: It's a draft report developed

1 by the authority. I have a final copy of the report.

2 MR. ABERCROMBIE: And I don't know whether we
3 ever made a final copy, but --

4 BOARD MEMBER UPTON: Whatever you've got we
5 would like to see.

6 MR. ABERCROMBIE: -- I will -- well, like I
7 said, I will ask, Kole. I will ask.

8 BOARD MEMBER UPTON: Fair enough.

9 MR. ABERCROMBIE: I mean, I'm not a legal guy,
10 so I can't tell you what rules apply or don't apply.

11 BOARD MEMBER UPTON: I'm not a legal guy either,
12 but I am paranoid, and when they said this will
13 embarrassing to them and they weren't going to show it to
14 us, I thought why not, you know.

15 MR. ABERCROMBIE: Got you. I got you.

16 BOARD MEMBER UPTON: Okay.

17 MR. WELCH: Could we move on to 5(a), access to
18 facilities?

19 MR. ABERCROMBIE: Oh, we're going back up. Got
20 it. Got it. Got it.

21 MR. WELCH: So access to facilities, as I was
22 stating, Ken Swanson with AECOM indicated at every place
23 where the High-Speed Rail crossed our facilities, they
24 would build some type of a structure that would -- a
25 concrete structure that would get us from one side to the

1 other, down through a box, back up, similar to a box
2 culvert. I asked him what size vehicle is going to be
3 able to go through that, he said, "Well, definitely a
4 pickup," I was shooting for at least a dump truck. But,
5 anyway, we were assured that we would have access from
6 one side to the other.

7 Another discussion was road closures and how
8 you're going to be building overpasses. For instance, an
9 example is on the Avenue 21 route where you cross Road 16
10 we have a -- you're on the north side of Avenue 21, we
11 have a canal that's on the south side of Avenue 21. And
12 Road 16, you'd be making an overcrossing over the Avenue
13 21 railroad right of way. In order to -- it looked like
14 from the one side possibly we were going to have access
15 to the county road and the overpass, but from the east
16 side it didn't look like from what -- you know, the
17 footprint drawings that we were going to have access.
18 I'd sure like Chowchilla Water District to have access to
19 the county road that's open. I mean, it's bad enough
20 that you're going to close another road just a mile away,
21 but now to not even have access to the overpass, that
22 would -- keep in mind that we're talking about Chowchilla
23 Water District with the devil's triangle built in it, all
24 these Wyes --

25 MR. ABERCROMBIE: No, no, there will only be one

1 Wye. Just for clarification, there's one.

2 MR. WELCH: Right, there's one that's
3 essentially a triangle, and so I've got a guy that's
4 going down a canal, he runs into one part of the Wye, so
5 he's got to turn around and drive back two miles, "Oh,
6 that road is closed, so I can't use that road, so I got
7 to drive over another mile to get to a road that's open,
8 get across Highway 152, then go back up. No, I can't go
9 on that road, it's closed" and finally get over back to
10 our facilities. So he's maybe driven five, six miles
11 just where he could have gone from Point 1 to Point 2 in
12 ten feet.

13 MR. ABERCROMBIE: You know, that's a -- you
14 know, where those types of conditions exist, we need to
15 talk in terms of what's the appropriate access.

16 MR. WELCH: It's a place where right smack in
17 the middle of the Wye is a lot of them.

18 MR. ABERCROMBIE: Well, in some of those, you
19 know, maybe the proper solution is, and, again, depending
20 on where your control elements are on that particular
21 piece of canal and where they are in the -- within the
22 middle of the Wye, you know, it may be appropriate to try
23 to reconfigure that if there's a different way to control
24 the flow and put it all underground or something so that
25 it's maintenance free, other than the control issues, and

1 you have less to worry about in terms of access. It may
2 be more appropriate to actually build that extra canal.

3 MR. WELCH: Every single place where there's
4 water being delivered you've got a meter or a measurement
5 --

6 MR. ABERCROMBIE: The turnouts you called them,
7 right?

8 MR. WELCH: Right. And we go there once or
9 twice a day.

10 MR. ABERCROMBIE: So that may or may not be
11 impractical is what you're telling me.

12 MR. WELCH: It's not like in the city where
13 you're saying --

14 MR. ABERCROMBIE: It's pressurized.

15 MR. WELCH: It's pressurized and you read that
16 meter once a month. It's every single day he's going
17 down that canal multiple times, because we provide what's
18 called a modified demand system. Farmer calls in the day
19 before and says "I'd like to get water at eight o'clock
20 start." A farmer three miles down the canal, he also
21 wants to start at eight o'clock. So the ditch tender has
22 got to look and see who is all going off, can you match
23 any of those orders and get them to that point at the
24 same time, does he need to put more water into the canal
25 and how many times does he have to do that. He may have

1 to run his ditch two or three times.

2 MR. ABERCROMBIE: Over the course of a day.

3 MR. WELCH: And if he's having to backtrack four
4 or five times a day five extra miles, that's going to --
5 that's going to maybe add -- during the peak time of the
6 year, I might have to double the amount of ditch tenders
7 I have.

8 MR. ABERCROMBIE: This is where, and we
9 didn't -- I don't have a map for it, where it would be
10 really good to sit down with you and our road guys, you
11 and our staff, and what I don't have on a drawing like
12 this or a drawing like that is the overcrossings and
13 where they are with relationship to our alignment, so
14 that, you know, we can talk about those scenarios and
15 then find what would be appropriate, because -- you know,
16 I mean, I'll be a little bit silly about it, it could be
17 cheaper for us as an impact fee to pay for your extra
18 staff during the summer, because, you know, that works.
19 But, you know, I think that's kind of a silly solution.
20 I think there are better solutions.

21 MR. WELCH: You might put a crossing underneath
22 your -- with a box culvert that we can drive through with
23 a pickup.

24 MR. ABERCROMBIE: Exactly. You know, so I --
25 you know, all of those things we have to address. We are

1 required to make -- you know, so that when we've
2 accounted for the impacts, you know, in terms of this
3 disruption that you're able to do your job and we haven't
4 left you wanting from at that standpoint.

5 MR. WELCH: Let me just ask this question, Jeff,
6 because this is the question that I asked, "Are you going
7 to" -- I asked to Ken Swanson, "Are you going to provide
8 access to Chowchilla Water District from one side of the
9 High-Speed Rail to the other," the answer was "Yes,
10 Doug." Some people might not have been able to see,
11 but --

12 MR. ABERCROMBIE: You winked at me. I can't say
13 that we will put one at every single canal, I don't know
14 that.

15 MR. WELCH: You have none in the draft EIR
16 whatsoever.

17 MR. ABERCROMBIE: No, again, I look -- well, I
18 shouldn't say that, I don't know, because I don't know
19 all of them in the draft. What I understand is in the
20 draft is just the road crossings, so I'll take that --

21 MR. WELCH: I'll tell you that I've looked
22 through the draft EIR and there are no accesses to --

23 MR. ABERCROMBIE: What I did mention earlier is
24 is because those are private -- would end up being
25 private facilities, that's more of the right of way and

1 the impact, you know, from the standpoint of making an
2 agreement on how we're going to reconfigure your system.
3 It's not part of the public road issues that we have to
4 do the traffic analysis on and whatnot, so it falls more
5 appropriately in the idea of compensation in terms of the
6 right of way type of stuff. We certainly can work on
7 that earlier, and what's a little awkward is is when you
8 have multiple routes that aren't decided, you know, now
9 that means we have to spend a little bit of effort or
10 more effort to figure out the scenarios for three routes
11 if we try and do it ahead of time, versus once we know
12 that it's 152 or whatever, then we can say "Okay. Well,
13 here's the facilities we know are impacted, what's the
14 best way to do it?" Well, if we got three options or if
15 we've got four options, we've got to do this discussion
16 of design over four options. So what's more appropriate,
17 to do four options ahead of time or wait until we know
18 what the preferred is and then get to that solution once?
19 You know, it's -- I don't know if you want to call that
20 chicken or egg or not, but that's kind of the scenario
21 that we're in. I've had that with -- similar discussions
22 with the City of Bakersfield.

23 MR. WELCH: I would be satisfied with the
24 response that "We will mitigate. We're not going to say
25 that it's a negligible impact on the district, and we

1 will mitigate," either through paying for those extra
2 people or paying for a crossing from one -- access from
3 one side of the High-Speed Rail to the other at
4 appropriate locations for the district.

5 MR. ABERCROMBIE: We will mitigate, and that is
6 exactly what our chairman has been saying for the last
7 two weeks. That's our responsibility, and I thought I've
8 communicated that all long, but --

9 MR. WELCH: The draft EIR says for a farmer
10 that's trying to get from this side to that side, there's
11 an overpass down there two miles away that's -- "the
12 impact on you is negligible" I kind of feel the same
13 thing, as far as you don't say that about the water
14 district, but you don't provide for one access to get
15 from one side to the other in your draft EIR.

16 MR. ABERCROMBIE: Merced to Fresno draft EIR.

17 MR. WELCH: Yes.

18 MR. ABERCROMBIE: Understood.

19 BOARD MEMBER UPTON: I think as individuals
20 we've probably looked at this in our own responsibility,
21 each of us have a responsibility, mine is in Merced
22 County. In your draft EIR, you refer to roads that don't
23 exist. You have routes that are in the wrong county. I
24 mean, how are you supposed to be able to even ask for
25 mitigation when the thing is so flawed you'd have to

1 rewrite it in order to do it. Again, we go back to the
2 confidence thing here of how we're being treated, so I
3 just second what Doug has been saying.

4 MR. WELCH: I think I'm ready to go to 5(c).

5 THE COURT REPORTER: Can we take a break?

6 (Whereupon, a short recess was taken.)

7 MR. WELCH: Chowchilla Water District doesn't
8 have facilities that are able to deliver the maximum
9 demand during July and August, they probably meet around
10 70, 75 percent.

11 MR. ABERCROMBIE: By facility or by amount
12 available?

13 MR. WELCH: By facilities, and the remainder of
14 it is met by farmers using their deep wells. And there
15 are some farmers that have, you know, pretty poor deep
16 wells and other ones have better ones, and so they can --
17 well, we have some farmers that if we're down for two or
18 three days, they're depending on the irrigation cycle and
19 where we hit them on, they can be in -- approaching
20 pretty serious problems with -- let's say they were just
21 getting ready to irrigate, you know, it's been ten days
22 since they irrigated last, and they normally would
23 irrigate on a nine-, ten-day schedule, now we're putting
24 them out two or three more days because we have a
25 problem with -- normally would be with a pipe, there's a

1 break in the pipeline and we're working on it. So I'll
2 have to say that our facilities can't be down for a week
3 during the months of June, July and August, it's just not
4 acceptable. The crop loss would be possibly in the
5 millions with a lot of almonds out there depending on
6 where you are in the system. If you're up towards the
7 head of a pipeline and you've got 20,000 acres being
8 served by that pipeline --

9 MR. ABERCROMBIE: It's a big deal.

10 MR. WELCH: -- you can't take it down. In fact,
11 we've had times -- I mean, we're putting a Band-Aid on
12 and fixing it the best we can and --

13 MR. ABERCROMBIE: Until you get past the peak.

14 MR. WELCH: -- we're back up and running. You
15 talk in the draft EIR about interruption. We need you
16 not to be interrupting during our peak time, period.

17 MR. ABERCROMBIE: The way this would be handled,
18 and just like they've done it for Caltrans projects is is
19 we want you to define us a window, it goes in the
20 contract. Typically, we would -- you know, like for a
21 freeway, you'll build that thousand feet of pipe or canal
22 or whatnot wherever we need it, take it to the connection
23 points, and then in September or, you know, January, or
24 what is considered the appropriate time within that
25 three-month window, you're going to say "You get two

1 weeks." So we've done all the pipe. We get to
2 September, we shut it down for two weeks and we do those
3 two tie-ins, and then you're back up again. That's how
4 it would be handled.

5 MR. WELCH: Okay.

6 MR. ABERCROMBIE: It's done regularly. I've
7 done it myself with regards to the work that I've done
8 for Caltrans. Really what it does is it just takes
9 planning. Some of your canals, I think based on
10 different things I've read, you know, double for flood.

11 MR. WELCH: During the winter, yes.

12 MR. ABERCROMBIE: Yeah, so September -- or
13 January, March might not be the right time, so, you know,
14 it's just a matter of making sure we've got that defined,
15 which ones that are impacted, when they're supposed to be
16 used and how long they can be down for. So if it's two
17 weeks in a three-month window, or whatever you feel is
18 appropriate, that's how it would be handled. And it's
19 specifically written in the contract that he has to
20 handle it that way.

21 BOARD MEMBER UPTON: What Doug was saying,
22 though, on the farmers that have to use their deep wells,
23 in some cases where some of these routes are knocking out
24 five and six deep wells. I had a deep well go out last
25 week, and the nearest I could even get somebody to talk

1 to me is six months, so you're knocking out deep wells
2 all over the district and we cannot supply water through
3 the water district, you're going to have a heck of a
4 situation. I do not think your consultants have any clue
5 as to what the well drilling business is like here in the
6 Central Valley and the time frame that's required to be
7 on the list and to get it done.

8 MR. ABERCROMBIE: I've been told that, you know,
9 there's ways to try and plan for that.

10 BOARD MEMBER UPTON: Really?

11 MR. ABERCROMBIE: Yeah, part of it is just in
12 terms of just the right of way process where we --
13 especially on a project this large. If you're going to
14 be building 20 miles, okay, in a big chunk and you've got
15 an area where you've got to protect two or three deep
16 wells in this mile, you know, "Mr. Contractor, you can't
17 start work there until those wells are relocated," or
18 from our standpoint, those are a small contract that
19 potentially can be let ahead of the bigger contracts to
20 get them out of the way even before we're there. And
21 that's what I mean by a way to plan for it, Kole. I
22 mean, understand -- I mean, you can throw oodles of money
23 on it, too, and you can bring in more people to do some
24 things, but at some point that curve becomes too steep,
25 so you've got to think about it smart. And it doesn't --

1 it's the same problem we have with Okay Produce in
2 Fresno. They've got a facility and they've got tons of,
3 you know, cold storage, you know, that's not easy to
4 relocate, you essentially have to build them something
5 ahead of time off-line. And even we buy their property,
6 you know, in June that doesn't mean we're going to kick
7 them out in June. We can't kick them out in June,
8 because that would put them out of business. We've got
9 to work with the city, get that other place built and,
10 you know, get it done in a time frame so that, even if we
11 have to tell our contractor work around for a while,
12 we've got that arranged so that when this is built, he
13 can go from here to here and open up four hours later or
14 however -- and he may be able to transition or over a
15 period of a week, you know, it's not like he picks it up
16 all in one day. But, you know, the idea is -- what our
17 goal is is, you know, there are opportunities to do this
18 right and part of that's planning and knowing where your
19 critical juncture type things are. It's no different
20 than building a bridge. Bridges are usually harder to
21 build than a road and take a longer time, so the
22 contractors generally want to start on bridges and things
23 like that before they get down to the roadway.

24 BOARD MEMBER UPTON: Yeah, I get all that.

25 MR. ABERCROMBIE: You're just trying to make

1 sure I'm not forgetting, and it's going to be hard.

2 BOARD MEMBER UPTON: It's the process that we've
3 been involved in, and I go back to what Doug said, by
4 concentrating on the city, it seemed to me that your
5 route selections would save you a whole lot of problems.
6 It seems to me you're going through, getting your route
7 selections and then you're going out and saying "Well,
8 gee, all these impacts," whereas if you look at it in a
9 different way, "Gee, we could have avoided all this if we
10 had just done X, Y and Z ahead of time." So I guess
11 that's the process, the way rail people do things, so --

12 MR. ABERCROMBIE: Well, it's the at-risk way
13 we're doing what we're doing now, because --

14 BOARD MEMBER UPTON; okay.

15 MR. ABERCROMBIE: -- you know, taking longer we
16 get beat up for and hurrying we get beat up for, and so
17 we're just going to, you know, do the best we can to
18 balance those two.

19 I'll bring it back to this is that's an
20 excellent opportunity for you to say "Well, if you move
21 this over a thousand feet, instead of hitting ten wells
22 you hit three," that's a good recommendation and we're in
23 the position to do that.

24 BOARD MEMBER UPTON: Well, if you're talking my
25 place, I'm not going to help you, you know.

1 MR. ABERCROMBIE: I can only ask -- I can't
2 force anybody. I can't force anybody to do it, all I can
3 do is ask.

4 BOARD MEMBER UPTON: Well, I'm with Vince on
5 that, I'm not going to go throw my neighborhood under the
6 train, like the mayor of Fresno is going to throw us all
7 under the train to get what she wants, we're not that
8 way.

9 BOARD MEMBER WORLESHORNDL: The other thing is,
10 too, it's a little difficult, because we understand we
11 can't predict Mother Nature. We're in the water
12 business, and this year is totally different from last
13 year and how these things can be set up in a plan. How
14 do you plan for it? It's going to be extremely difficult
15 sometimes. We don't know one day from the next.

16 MR. ABERCROMBIE: Yeah, you don't know whether
17 you'll be irrigating --

18 BOARD MEMBER WORLESHORNDL: In our environment
19 it happens so fast, so it's going to be extremely
20 difficult.

21 MR. ABERCROMBIE: Your irrigation stations
22 probably started a little sooner than --

23 BOARD MEMBER WORLESHORNDL: They already have.
24 Last year we had plenty of water, the Lord blessed us
25 with it. This year it's totally different, and so it's

1 extremely difficult. The farmers -- and then to be
2 anticipating all these other things, it's helter-skelter
3 for a lot of us trying to figure it out, to raise our
4 families and to make plans, so it's tough.

5 MR. WELCH: Let's move on to the next item,
6 5(d).

7 BOARD MEMBER TAYLOR: My question never got
8 answered on (c) when I asked it too early.

9 MR. ABERCROMBIE: That was 6. Was it that or
10 was it 6? Oh, okay. Yeah, I can give you a little bit
11 of a process.

12 BOARD MEMBER TAYLOR: Okay.

13 MR. ABERCROMBIE: I mean, I talked a little bit
14 about it. We should be, just because of the time frames
15 we're in and trying to be as proactive as we can, we will
16 probably be sending out notices to appraise probably in a
17 few weeks in Fresno. Now, that is --

18 BOARD MEMBER TAYLOR: You picked the route,
19 right?

20 MR. ABERCROMBIE: We have a preferred in Fresno
21 and, you know, everybody knows where it is, it's right
22 along the UP in Fresno. We officially do not have any
23 EIR docs, so the route is not picked technically. So
24 when I say we go out to appraise, it means we will take
25 our property owners, we'll assign them an appraiser and

1 they will go out and meet and get the information they
2 need to start the process. We can't make an actual
3 offer. We can't do negotiations until we have that EIR
4 doc done, so we're starting a little earlier by doing
5 that. But in the scenario we're talking about here, what
6 would probably happen is we'd get our final document,
7 then you would see the letter, you'd get your appraisals
8 worked up. And that appraisal process, you know,
9 different properties will take a different amount of time
10 because of the complications of any given one. But they
11 will go through, they will meet with -- an appraiser will
12 meet with you. There's a number of appraisal specialists
13 that are involved depending on, you know, the business or
14 whatever. There will be an ag specialist if you're
15 into -- you know, in terms of a business and different
16 things. There's relocation specialists, and that
17 certainly could apply to farm facilities too. And there
18 are several others that go on. There will probably be
19 somebody who will be helping coordinate with permits if
20 there's new permits needed. Dan Richard has talked about
21 getting the governor to put together a -- well, they call
22 it a tiger team, whatever, the idea that there will be
23 people dedicated to facilitate the permit processes that
24 are dealt with by other state agencies. Regulatory, in
25 terms of water quality. Dairies is what kind of started

1 this discussion, the idea that it's very difficult, in
2 terms of dairy impact, dairy permitting. Well, if this
3 is a public project for a state agency, and another state
4 agency is required to participate due to the impacts
5 because of a permit, you know, gee, whiz, wouldn't it be
6 smart if the two agencies could figure out how to get it
7 done sooner, rather than just kind of toss the ball over
8 the fence and leave the farmer out of luck. But the idea
9 is you will have a couple of specialists that will meet
10 with you and try and make sure they have an adequate
11 picture of what your infrastructure is, you know, what
12 the property is, all the inputs that would affect the
13 appraisal. That's got to go through the appraiser. It
14 will go through the authority, who will check it, and
15 then it has to go through, I think it's DGS who has to do
16 their check to it. Then it will come back as an offer,
17 that offer -- you know, then it's a matter of back and
18 forth and so on. Dan Richards and Tom -- Tom Richards
19 and Dan Richard had this discussion with several property
20 owners on Golden State, and they're very committed that
21 we're not out here -- and we -- they likened -- the
22 businesses likened it to Caltrans as being very poor and
23 their commitment to them was the authority will not be
24 like Caltrans. We want to come in with a good fair
25 offer, because Dan's goal is no condemnations,

1 realistically that probably won't happen. So those --

2 BOARD MEMBER TAYLOR: How long did all that just
3 take?

4 MR. ABERCROMBIE: That took probably six months
5 or so.

6 BOARD MEMBER TAYLOR: From the time you pick the
7 property to the time we have an appraisal.

8 MR. ABERCROMBIE: The time you have an offer in
9 hand, roughly.

10 BOARD MEMBER TAYLOR: From the time you pick the
11 route until the time you have an offer is six months?

12 MR. ABERCROMBIE: Yes, from that finished EIR to
13 there.

14 BOARD MEMBER UPTON: But you got to start
15 construction by September.

16 MR. ABERCROMBIE: No, no -- well, are we talking
17 about here or are we talking about there?

18 BOARD MEMBER UPTON: There.

19 BOARD MEMBER TAYLOR: Anywhere in general. I
20 would imagine they're all the same.

21 MR. ABERCROMBIE: Then -- no, they're not. No,
22 they're not. I mean, they are and they aren't. Let's
23 just talk about kind of a normal process, and we'll talk
24 about Fresno -- I can talk about Fresno specifics in a
25 minute.

1 BOARD MEMBER TAYLOR: Okay.

2 MR. ABERCROMBIE: So it might take about six
3 months.

4 BOARD MEMBER TAYLOR: So once I get a letter
5 saying "Hey, we're taking your property," by six months
6 I'm going to have --

7 MR. ABERCROMBIE: Theoretically you'll have an
8 offer that you can look at and go "Oh, I don't like it"
9 or "Oh, that's not too bad" or whatever, or "Gee, whiz,
10 you forgot this that we talked about, please put this in
11 the offer" and then we go from there.

12 BOARD MEMBER TAYLOR: If I take the offer, how
13 long does it take to get a check? How long am I off
14 the -- do I keep the property -- do I possess the
15 property until you actually start construction? She's
16 got a question over there, she's trying to get your
17 attention.

18 MS. HUMPHREY: Oh, I was just -- we were just
19 talking about this the other day, and we talked about six
20 months to the offer, assuming there's a final document,
21 and some of those things that you're talking about are
22 discussed with the appraisers on a one-on-one basis
23 property by property, so it's kind of hard to give a
24 specific timeline.

25 MR. ABERCROMBIE: Well, I'll talk about a couple

1 of nuances later.

2 MS. HUMPHREY: Okay.

3 MR. ABERCROMBIE: Yeah, I'm talking about just
4 kind of an ideal process. Okay? And, you know, I don't
5 know how long it will to go -- assuming you say "Yeah,
6 that's okay," I would assume that probably within three
7 months you could have a check, maybe -- but, you know,
8 I'm giving the state a little credit that maybe they can
9 do it in three months, I don't know.

10 BOARD MEMBER TAYLOR: We're nine months into
11 this now.

12 MR. ABERCROMBIE: You're roughly nine months
13 into, could be sooner, but roughly nine months into it.
14 The state must give you 90 days before you vacate.
15 That's the statute.

16 BOARD MEMBER TAYLOR: So we're a year.

17 MR. ABERCROMBIE: Doesn't mean you couldn't
18 voluntarily vacate sooner. It also doesn't mean that we
19 couldn't make the contingent, the offer, be such that you
20 can continue to farm and do whatever you want to do on
21 the property until such time as we let the contract,
22 which could be, who knows, a year, 18 months, 6 months,
23 but --

24 BOARD MEMBER TAYLOR: Six years, ten years.

25 MR. ABERCROMBIE: No.

1 BOARD MEMBER TAYLOR: If it dies. Okay. Now,
2 this thing happens, boom, it dies, money was taken away,
3 once the money is taken away the track stops, I would
4 imagine, there's not too many private investors in this.

5 MR. ABERCROMBIE: We're getting into business
6 plan stuff, and that's a little bit outside what we need
7 to talk about today. But -- so that's kind of how the
8 process would unfold. Now, let's talk just a little bit
9 about exceptions. Fresno, you know, there are properties
10 that will take longer to move than others, those are the
11 ones we're going to focus on first. You know, the idea
12 is the Okay Produce -- so there will be a lot of efforts
13 to focus on the ones that are critical or the ones that
14 are on a piece of a bridge or infrastructure that's going
15 to take longer to build, so we need it sooner, so, you
16 know, we're going to try and focus on those. So if you
17 happen to be out in maybe Golden State where isn't as
18 critical, you may not be the first one that's called up
19 and an offer made to, because there's -- you know, with
20 300 and whatever there is going to be some period in
21 there that -- of inactivity. We're going to put,
22 obviously, as many people on it as we can. So it's not
23 like you'll get a call necessarily the day after the
24 route is determined, because we're going to try to
25 prioritize, both from the standpoint of people that have

1 to be moved and things that have to be done.

2 BOARD MEMBER TAYLOR: That makes sense.

3 MR. ABERCROMBIE: So we'll be looking at -- and
4 those are some of the exceptions. The other exceptions
5 for Fresno, as I mentioned, we're actually starting a few
6 months before we got the EIR by at least getting the
7 appraiser and the landowner talking. The other some of
8 things we'll do in Fresno, which we probably wouldn't
9 have to do, hopefully don't have to do in, for example,
10 this area is, you know, we'll have a record of decision
11 and we won't have a contract hot on our heels, you know,
12 ready to go the next day. So there likely will be a
13 little more period of time that you can work a little
14 more of this stuff out. So that's a rough time frame,
15 exceptions will occur because of it. Does that answer
16 the question?

17 BOARD MEMBER TAYLOR: Would the payments be paid
18 in lieu of condemnation?

19 MR. ABERCROMBIE: You know, that might be a real
20 estate question, because I don't --

21 BOARD MEMBER TAYLOR: It's a big difference.

22 MR. ABERCROMBIE: I don't understand the
23 question.

24 BOARD MEMBER TAYLOR: Well, in lieu of
25 condemnation, if you're in a treat of condemnation, you

1 can do a 1033, which gives you a different tax structure
2 on what you can do with the money versus if you just
3 outright sell it willingly. So even though they willing
4 go ahead and sell it, would it be in lieu of
5 condemnation.

6 MR. ABERCROMBIE: I'll leave that between you
7 and the appraiser, because I don't know. I understand
8 that happens is "I like your offer, but I'm not going to
9 accept it because," wink.

10 BOARD MEMBER TAYLOR: "Go ahead and take it."

11 MR. ABERCROMBIE: Exactly, "I'm not really going
12 to fight you," --

13 MR. WENZEL: I think it's called inverse
14 condemnation.

15 MR. ABERCROMBIE: No, I don't know if it's
16 called that, but I know what you mean, there is a tax
17 benefit if it's --

18 BOARD MEMBER TAYLOR: Just curious.

19 MR. ABERCROMBIE: Well, it isn't, it's a very
20 difficult question, because it's a very technical right
21 of way question, so I can't answer it.

22 BOARD CHAIRMAN MADDALENA: My question is how
23 being a path are you taking? How big a path are you
24 buying and from -- how close to the track can I farm
25 and --

1 BOARD MEMBER TAYLOR: Spray and -- on a normal
2 procedure, normal procedure on a farm, how close can you
3 go?

4 MR. ABERCROMBIE: Generally speaking, we are a
5 hundred-foot wide. When we get to a bridge, we're going
6 to be looking at about 60 foot of right of way, the
7 bridge is about 50 foot, but we're going to want a little
8 space on each side.

9 BOARD MEMBER TAYLOR: So you're a hundred --

10 MR. ABERCROMBIE: A hundred-foot wide.

11 BOARD MEMBER TAYLOR: That's what you're buying?

12 MR. ABERCROMBIE: That's what we want to buy.
13 Now, there will be places where we'll buy a little more
14 or a little less, because there are other facilities that
15 go with -- you know, you have to put traction -- what
16 they call traction power stations and maybe a
17 communication station, you know, radio tower, different
18 things here and there, but essentially a hundred feet.

19 BOARD CHAIRMAN MADDALENA: A hundred feet, so
20 basically this side of the track --

21 MR. ABERCROMBIE: 50 feet, 50 feet.

22 BOARD CHAIRMAN MADDALENA: So I don't have a
23 problem farming 50 feet from your High-Speed Rail?

24 MR. ABERCROMBIE: No. Now, when it's that gray,
25 we -- and because of the speeds we travel, it's fenced,

1 you know, so that's different than what a farmer would
2 experience here.

3 BOARD CHAIRMAN MADDALENA: Well, I'm saying if
4 you're only buying a hundred foot, that's all you got.

5 MR. ABERCROMBIE: That's correct.

6 BOARD CHAIRMAN MADDALENA: I can farm 50 feet
7 out.

8 MR. ABERCROMBIE: Now, in the appraisal process
9 we have to -- we buy that. But if, because you need a
10 turnaround row and you're going to take out two or three
11 trees, we also -- the authority has to compensate for the
12 impacts to the land that we don't buy. So if you lose
13 two rows of trees, for example, then that's something
14 that we might be compensating you for. And I say might,
15 because it's really part of the real estate negotiation
16 that has to be paid for for the land that remains.

17 BOARD CHAIRMAN MADDALENA: That was my next
18 question. My next question is when you guys -- if you're
19 cutting through a piece at an angle, say you have a
20 20-acre partial and you cut through a piece, sometimes
21 you make that piece not very sellable, because you
22 basically ruin it.

23 BOARD MEMBER TAYLOR: Are you obligated to buy
24 that piece?

25 BOARD CHAIRMAN MADDALENA: Are you obligated to

1 buy the whole piece? What do you --

2 MR. ABERCROMBIE: Again, that's a --

3 BOARD MEMBER TAYLOR: She says no.

4 MS. HUMPHREY: No, I'm sorry, I'm saying --
5 case-by-case basis.

6 BOARD MEMBER TAYLOR: She's shaking her head no.

7 MS HUMPHREY: Case-by-case basis. I'm sorry, I
8 just --

9 MR. ABERCROMBIE: Well, I mean, it's back to --
10 that tends to fall into the right of way negotiations.
11 When we made our estimate in terms of the amount of ag
12 acreages that we put in the EIR doc, we tried to estimate
13 what would be considered additional takes by remnant
14 partials. And that may or may not return to farming. In
15 other words, if you -- if we buy -- out of your 20-acre
16 field we chop off 3, and we only needed 2, but that last
17 acre was just kind of sitting there in the corner. Well,
18 hopefully, that could be resold and, you know, maybe it
19 will never be production farming, but it may become your
20 neighbor's pond or something else that would facilitate
21 the ag use.

22 BOARD MEMBER TAYLOR: Who would sell it to the
23 neighbor? You would sell it to the neighbor or you want
24 me to sell it to the neighbor?

25 MR. ABERCROMBIE: No, no, I'm talking about it

1 being a remnant.

2 BOARD MEMBER TAYLOR: You would buy it and then
3 you would sell it to the neighbor?

4 MR. ABERCROMBIE: There are other things, and
5 the Spanish paper talked about it, is, you know, if we
6 were right down the middle of 40 acres and essentially
7 you have now 18 on each side and a particular owner is,
8 like -- back to this getting back and forth, you know,
9 depending upon how imaginative you can be and how
10 willing, you know, we wanted to do it, we can arrange
11 land swaps, you know, so that if this farmer lost -- you
12 know, was bisected and this farmer was bisected, well,
13 could these two opposite corners be swapped? It's
14 possible, the question is, you know, like land, like
15 crops, like --

16 BOARD MEMBER TAYLOR: Deep wells.

17 MR. ABERCROMBIE: All of it -- it's not going to
18 work in every situation, it's not the panacea, but it
19 is -- you know, the point is if it can be done to return
20 it so that it's back to production, that's a good thing.

21 BOARD CHAIRMAN MADDALENA: Another question is
22 you go through a hundred-acre block and you buy a hundred
23 feet, I got my pump on this side, I've got my pumping
24 station on this side, basically you've cut me off from
25 this other 50 acres, what do you do there?

1 MR. ABERCROMBIE: That's one of the things that
2 Doug made reference to, the idea of putting, you know, a
3 steel case casing in. It may be that we're going to have
4 to pay for your irrigation system to be redesigned. You
5 know, if it's pressurized it's a little simpler than if
6 it's gravity flow.

7 BOARD CHAIRMAN MADDALENA: So you just have to
8 wait and see.

9 MR. ABERCROMBIE: But we're responsible -- you
10 know, if you want to continue to farm and it makes sense
11 for you to continue to farm both sides, we have to make
12 that whole. And it could be drill a well on the other
13 side, and so you've got two wells now and maybe a conduit
14 underneath. I mean, there's a variety of ways to do it
15 and that's part of the right of way process.

16 BOARD CHAIRMAN MADDALENA: I'll give you another
17 example. I've got a piece you guys actually have one
18 route and it's cutting through seven partials. I mean,
19 it's just one ranch, it's kind a group of ranches,
20 they're cutting through every damn partial I have.

21 MR. ABERCROMBIE: Really? It wasn't on purpose.

22 BOARD MEMBER UPTON: It sure looks like that.

23 MR. ABERCROMBIE: I know, it does to everybody.

24 BOARD CHAIRMAN MADDALENA: (Inaudible) --"how
25 can I just run this piece of ground, oh, cut right

1 through there."

2 MR. ABERCROMBIE: You know, if we could turn
3 this thing on a dime, it would make life a lot simpler,
4 unfortunately, we can't.

5 BOARD CHAIRMAN MADDALENA: Well, I'm just saying
6 there's going to be a lot of impact.

7 MR. ABERCROMBIE: That's a lot of impact.

8 BOARD CHAIRMAN MADDALENA: I mean, it makes it
9 terrible to farm.

10 MR. ABERCROMBIE: Well, and that's -- you know,
11 I think one of the things that, when you look at it, you
12 know, the costs have continued to gone up, because as you
13 design and see more, there are things that have to be
14 done, things that we try to do to avoid some of those
15 situations.

16 BOARD MEMBER TAYLOR: How loud is this thing?
17 Is it as loud as this?

18 MR. ABERCROMBIE: Less. Less than a freight.

19 BOARD MEMBER TAYLOR: Less than a freight train.

20 BOARD MEMBER UPTON: You know, it's taken them
21 50 years for us to develop what we've got here and you're
22 going to come in here and fix it and redo it in six
23 months, I don't think so. But, anyway, one of the really
24 confusing documents, and I don't know if it's still on
25 your website, but it was on there the last time I looked,

1 and it says "The indirect biological input is a quarter
2 mile on each side of the track in ag areas." And when
3 the ag commissioner looked at that, and I asked him "Can
4 we spray," he just laughed. So when you say it's only a
5 hundred-foot impact on farmers, that's not true. It's
6 quite a bit more than that. And when you're going
7 through at an angle and you're knocking out water systems
8 and everything else, I mean, Sherman's march through
9 Georgia looks like a cake walk compared to what you guys
10 are going to do.

11 MR. ABERCROMBIE: Well, the quarter mile is a
12 study area. Now, I don't know exactly the paper comes
13 out, hopefully it will be out this week, but -- and
14 somebody sent me a Department of Pesticide regulation
15 letter, and I -- well, I wasn't thinking we'd need it
16 particularly at this, and I want to read it, but the
17 paper that the agriculture working group put together
18 with the ag commissioners is -- says, in their opinion,
19 and they're the authority in terms of the ag
20 commissioners, and, you know, meeting with DPR for their
21 concurrence on it as well, they worked together, is the
22 High-Speed Rail will be treated, in terms of regulation,
23 no differently than any freeway or any county road or
24 railway. So that means, you know -- and I'm not a pest
25 guy, I'm not an applicator, so I don't know how close you

1 can spray. I know different products have different
2 labels and instructions on what you're supposed to do or
3 not do. So it would be the same to follow those labels
4 against the High-Speed rail right of way as a county
5 road.

6 So then the question comes up about induced
7 wind. Well, our teams looked at it and we've looked
8 through this and, you know, I don't know how to, you
9 know, prove it to skeptical minds, but one engineering
10 team looked at it and did the math to determine the wind
11 speed for the purpose of dust calculations. The other
12 team looked at it from the idea of what wind would be
13 induced, and they went and -- went to a German research
14 paper specifically on train worker safety for High-Speed
15 Rail, and got the document translated out of German, et
16 cetera, you know, interviewed the professors that did it.
17 Basically, they took wind measurements at three meters
18 from the train. Those wind measurements -- you know, put
19 it in a graph and whatnot. Essentially says at 3 meters,
20 or 10, 12 feet from the train, your wind speed is 5 to 10
21 percent, and I misquoted this at the Chowchilla meeting,
22 and I corrected it with an e-mail, but I said 10 to 20
23 percent, but it's 5 to 10 percent of the train speed. So
24 that means at 10, 12 feet from the train, it's only
25 blowing roughly 10 to 20 miles an hour. As you go out to

1 the right of way, and if it's a 50-foot -- if it's less
2 than 50 foot, you know, it would be a little bit more,
3 but if it's at a 50-foot right of way, that puts the wind
4 speed down to 2 to 5 miles an hour or so. That's, you
5 know, well within the peak gust averages for the meter --
6 the weather stations, like Merced Airport and so. Now,
7 to me, that means, you know, you're not in a position
8 that you're going to be blowing anything that was sprayed
9 on a field blowing it someplace else, you know, because
10 it's not a hurricane coming through there. It's not --
11 you know, it's no different than the ambient general
12 things that have to be dealt with in the Valley to begin
13 with. For somebody that's already got that to deal with
14 because they're along UPR, it wouldn't necessarily be any
15 different of an impact. For a place where we split
16 property, that's a new impact, totally understand that.
17 You got to look at them differently, because they didn't
18 have a county road in the middle of their property and
19 now they do. And so they have to change their practices,
20 that's an impact that has to be looked at from the right
21 of way standpoint in terms of compensation.

22 BOARD CHAIRMAN MADDALENA: But you're saying
23 drive over a county road --

24 MR. ABERCROMBIE: I'm just talking about in
25 terms of the pesticides and that kind of thing and what

1 the wind from the train would be.

2 BOARD MEMBER TAYLOR: 10 feet would only be 20
3 to 15 miles an hour?

4 MR. ABERCROMBIE: 10 to 20 miles an hour.

5 BOARD MEMBER TAYLOR: If you stood off of 152
6 ten foot and a big truck came by you at 65 miles an hour,
7 do you think the wind that would hit you is only going to
8 be 15 miles an hour?

9 MR. ABERCROMBIE: I don't see too many big
10 trucks that are as aerodynamic as a train. I know it's
11 skeptical --

12 MR. WELCH: There are lots of trucks that are
13 aerodynamic.

14 BOARD MEMBER TAYLOR: I'm just saying if you
15 stand next to a freeway --

16 BOARD CHAIRMAN MADDALENA: He didn't make the
17 study.

18 MR. ABERCROMBIE: I'm telling you what the study
19 studied.

20 (Off the record.)

21 BOARD CHAIRMAN MADDALENA: We need to move this
22 thing along. If there's nothing else on this subject, we
23 need to probably move on to air quality --

24 MR. ABERCROMBIE: Sure.

25 BOARD CHAIRMAN MADDALENA: -- which is

1 discussion of the impacts on air quality caused by
2 increased miles driven by Chowchilla Water District
3 operation and maintenance vehicles due to closure of
4 canal, pipeline, county road and plans to mitigate air
5 quality impacts.

6 MR. ABERCROMBIE: Our air quality analysis, I'll
7 put it pretty simply, and I doubt, you know, that they
8 separated out, you know, Chowchilla Water District, you
9 know, that's too fine a detail. But in doing the road
10 analysis, looking at the closures, looking at where the
11 new overcrossings would be, they have to reconfigure
12 where the trips go. I mean, that's just -- you have to
13 look at it from a roadway impact, what you have to do to
14 improve the roads or traffic signals or whatever. That's
15 all done, so all the trip miles are recalculated. And in
16 doing so, they take into account extra miles driven in
17 their air quality analysis. I mean, trips that are off
18 and there's trips that are -- excuse me, there's trips
19 that are saved and then there's additional trips because
20 of, you know, the extra rerouting.

21 MR. WELCH: The analysis does none of that for
22 the Chowchilla Water District, though.

23 MR. ABERCROMBIE: That's what I said. I
24 understand. They don't go down to that level. They look
25 at it on a regional level and they look at what trips are

1 on the road. Now, things that are off the road, the
2 farmers and whatnot, Melissa, you might be a little more
3 familiar with the document than I or the technical
4 reports that the team did or, Dick, maybe you can comment
5 on the technical reports. I don't know how off-road
6 trips were calculated. I mean, you look at the road
7 trips, I mean, that's what -- they're in there. I don't
8 know how we deal with off-road trips, that one I can't
9 answer. And if I understand -- for every truck that
10 Chowchilla Water District, I mean, it could be a farmer,
11 too, that they have on the road, that's accounted for.
12 But all they're trips that aren't on the road, I don't
13 know if they're accounted for or not.

14 MR. WENZEL: Right. You're right, it's a macro
15 level.

16 MR. ABERCROMBIE: It's an awful macro level
17 compared to the overall picture.

18 MR. WENZEL: I think we have to address it
19 specifically, give it some special thinking.

20 MR. ABERCROMBIE: And, Melissa, maybe you can
21 comment on that for me because -- in terms of
22 perspective, you know, from the CEQA-NEPA side it -- you
23 know, it seems like we're down to such a fine level that
24 it would be -- I don't even know how to phrase it, but it
25 becomes really a speculative analysis because it's such a

1 small percentage of the overall picture regionally.

2 BOARD MEMBER UPTON: Let me help you out.

3 MR. ABERCROMBIE: But, you know, I asked Melissa
4 if she can comment on it.

5 MR. WELCH: We're not concerned with the
6 regional impact. I'm concerned with impact on Chowchilla
7 Water District. I have a truck out there that's a spray
8 rig and we're spraying weeds on the canal. It's a diesel
9 vehicle. It has to be retrofitted for the Air Quality
10 Control Board's specs, you're going to double the miles
11 that it has to drive possibly, that's a major impact to
12 the district. When I was working for Imperial Irrigation
13 District, they had to do mileage reduction plans for air
14 quality there. If we're going to increase the amount of
15 miles that we're driving on dirt roads, dirt roads that
16 we have to put sand on for air quality to keep dust down,
17 not just for the air, but for farmers for mites.

18 MR. ABERCROMBIE: I got you. Right. Okay.

19 MR. WELCH: So I'm going to have to double the
20 amount of miles on that. I'm going to have to double the
21 amount of times I put sand on it. I'm going to have to
22 double the amount of times I grade that road to keep it
23 so it's not just washboarded.

24 MR. ABERCROMBIE: Because of more trips on it.
25 Okay. I follow you now, it took me a minute.

1 MR. WELCH: And so regionally, I don't care
2 about the region, I care about impact on Chowchilla Water
3 District and cost.

4 MR. ABERCROMBIE: Well, that kind of goes back,
5 though, to should we be building you an individual
6 overcrossing at each and every canal is really what that
7 kind of -- I mean, I guess I equated it to that. I
8 totally misunderstood this. But, you know, that goes
9 back to, okay, that ups the level of, you know, it would
10 better to provide a bigger undercrossing, if that's what
11 we do, so that that rig can get through it, rather than
12 just a pickup truck.

13 BOARD MEMBER UPTON: In addition to that,
14 although it may be a macro from your level, for the Air
15 Quality Board in the Valley it's down to the micro level.
16 Each farmer is required to fill out an air quality thing
17 on the number of trips he takes and what he's doing to
18 reduce the impact and put signs up, you can only go five
19 miles an hour, water your roads and do all that. Now if
20 we have to go around and we have to double everything,
21 you know, it doesn't make a lot of sense, because this
22 project, supposedly, is supposed to reduce air quality.
23 Well, it's not going to do that if everybody on the line
24 has to double their trips on the dirt road, so it is not
25 just a macro thing.

1 MR. ABERCROMBIE: I -- you know, we'll have to
2 go back and I'll have to ask a question on how that's
3 looked at from that standpoint in regards to the farm
4 trips. I know that a lot of that had been looked at, but
5 how it's documented and what precisely was analyzed. You
6 know, again, it boils down to how many of those trips --
7 extra trips have to be made. I agree.

8 BOARD MEMBER MANDALA: It's going to increase
9 the mileage by a lot, because you're closing off our
10 county roads two miles apart. If you got a ranch on both
11 sides, you might have to drive a mile all the way around.
12 You might drive two miles to get to your ranch that you
13 can see across the road. I can see my ranch on this side
14 of the road, but I got to drive clear to Robertson
15 Boulevard to go across and come back. I got some of
16 those.

17 MR. ABERCROMBIE: No, I got you.

18 BOARD MEMBER MANDALA: I can see my ranch on the
19 other side, but I'm going to have to go all the way
20 around. I'm going to have to send my tractors all the
21 way around. I think there's a lot of people in my area
22 are going to be that way.

23 MR. WELCH: So we have a typical ditch tender
24 truck that runs anywhere from 25 to 30,000 miles, at
25 least half of that is on unimproved -- our canal banks.

1 MR. ABERCROMBIE: That's per year?

2 MR. WELCH: Yeah. So there's 15,000 miles that
3 are on our dirt roads that are sanded. If you double
4 that, you double the impact on air quality. You double
5 the amount of cost for the fuel, and you've doubled the
6 amount of hours that that employee has to spend working,
7 and you need to pay him overtime or I'm going to have to
8 hire -- maybe I can't -- you know, if he's working 8
9 hours in a day and I've got to have him working 12, 14
10 hours, that's not reasonable.

11 MR. ABERCROMBIE: You wouldn't work somebody
12 that. But, you know, that goes back down to kind of what
13 I suggested is we got to get back to a map, and we talked
14 about that. Get a map that's got both of them on there,
15 you know, your canal structure and our overcrossings, and
16 then let's talk about how those trips are made and
17 calculate that out. Now, the question really is is how
18 many different variations do we do it for. And do we do
19 it now, or do we wait until we take a look at -- you
20 know, a few months from now when we settle down on what
21 actually we're going to do with these Wyes as we carry
22 them forward and if they're adjusted north, south, east,
23 west at all, curvatures or whatnot. I assume the
24 appropriate time to do that might be three or four months
25 in the future when the San Jose to Merced team targeted

1 it for June that we do a supplemental type analysis, and
2 then we can narrow down or fix -- you know, fix is a
3 relative term, because even in the design engineering
4 process you can move it a little bit -- just a little
5 bit, but what I'm talking about now is whether we're
6 moving it a quarter of a mile or a half mile one way or
7 the other. Then we can sit down and really analyze, you
8 know, to count up where are the impact, where are most of
9 your trips occurring from. And then those are the things
10 we need to target on, what's the best solution, whether
11 it's an undercrossing, overcrossing, or whatever.

12 MR. WELCH: An access road for a quarter mile.

13 MR. ABERCROMBIE: Yeah, instead of driving back
14 down the ditch bank a half mile, buying you an easement
15 so you can go out a quarter mile the other way, whatever
16 it happens to be. Or if your canal is parallel to our
17 structure and we've got an overcrossing, you know, there,
18 we certainly don't need to make you come out and go
19 around and whatnot, but that you can get through down the
20 canal bank appropriately or down that road appropriately
21 so that you're not blocked by our overcrossing. There
22 are a number of ways to look at it, hopefully. But I
23 think, Doug, the number of miles and then how that is fit
24 into the mitigation or the compensation, you know,
25 there's a variety of names that they call it, impact fee

1 that is appropriate, you know that's part of what that
2 calculation has got to do. You just got to it of run it
3 out.

4 BOARD CHAIRMAN MADDALENA: If there's nothing
5 else, we're going to move on to E, Chowchilla Water
6 District EIR-EIS comments not covered on the subjects
7 above.

8 MR. WELCH: I just reserved this for my notes.
9 I haven't written any notes on anything that I think we
10 haven't covered, so I don't have anything.

11 BOARD CHAIRMAN MADDALENA: If there's nothing,
12 we'll move on to High-Speed Rail. I think you wanted to
13 present something.

14 MR. ABERCROMBIE: You know, you had the hand
15 on -- I think we actually might have touched on this, but
16 we can kind of flip through it with regards to it. You
17 know, Kole already kind of brought it up with regards to
18 the -- you know, one of the things I was going to mention
19 was the LaHood trip and the chairman, you know, that they
20 -- well, one of the -- and I'll paraphrase it, is from
21 Dan Richards is, you know, our obligation is to make,
22 whether it's an ag person or a business in the city,
23 whole. And we want to do that in the most expeditious
24 fashion possible. We don't want to waste time jerking it
25 around. And it will do us no good to jerk it around

1 because, from the authority's perspective, and I'm a
2 hundred percent behind this, is the longer we drag this
3 out, the harder it's going to be, the worse it is in
4 terms of support, the worse it is -- because if we -- for
5 example, when we go to start buying farm property in this
6 first construction section, if we don't do it right,
7 every farmer in the Valley is going to know. And if we
8 jerk them around and we don't take care of them the way
9 we're supposed to or the way we said we're going to be
10 doing it, every farmer in the Valley is going to know.
11 Now, hopefully, if we do it right, they'll admit to us
12 doing it right and they won't be bragging about how hard
13 it was that they got their money. And I know the
14 negotiation they may or may not, you know, pony up what
15 they got. But, you know, it does us no good, and this is
16 Dan's point, it does us no good not to do it right,
17 anyway.

18 BOARD MEMBER UPTON: You do realize that you
19 have Kings, Tulare, Kern and Madera County that all took
20 a position here, and the reason is because of the way
21 their constituents have been treated. So it's not just
22 "Okay. We're going to do it right when we buy your
23 property," some of these people are saying "Hey, we don't
24 want to give up our heritage, our future for this thing.
25 We want you to show us something that you can accomplish

1 your goals, but allow us to live our lives as well."

2 MR. ABERCROMBIE: Well, A big part of those
3 votes were the business plan. You know, and I can't
4 speak to the business plan, and it's really outside the
5 frame of this particular -- you know the idea of what we
6 need to accomplish today anyway. But it will be out, and
7 Dan has talked about it, that he's got things he wants to
8 accomplish with it that makes it more easy to understand
9 and to convince them that we can -- convince people that
10 we can accomplish our goals.

11 BOARD MEMBER UPTON: Well, it sort of bleeds
12 into the financial impacts on what you're talking, the
13 next item while you're doing this. But I understand in
14 the business plan that the operating cost projected
15 worked out to about 10 cents per passenger mile, and yet
16 in Europe it's like 43 cents per passenger mile, so that
17 seems to be a little bit of a disconnect. Is that not
18 true?

19 MR. ABERCROMBIE: I don't know. I haven't heard
20 that comparison, so I couldn't comment on it. So you
21 figure -- somebody's divided it up that 10 cents versus
22 Europe is 40 cents?

23 BOARD MEMBER UPTON: Right.

24 MR. ABERCROMBIE: I don't know. You know, I --
25 per passenger mile?

1 BOARD MEMBER UPTON: Yes, per passenger mile.

2 MR. ABERCROMBIE: Now, the hard thing about that
3 it -- you know, Kole, like I said, I haven't heard
4 numbers, so I can't say, you know, when you do that are
5 you looking at 20/20 numbers, are you looking at 20/30
6 numbers, are you looking at 20/35 numbers, you know, in
7 terms of how that's worked out. We have high, medium and
8 low projections and all that, so it makes it real hard to
9 figure it.

10 MR. UPTON: But, see, we have an obligation to
11 our constituents, not only to deliver water, but to
12 maintain the financial viability of this district. For
13 instance, two years ago, three years ago the State Water
14 Resources Control Board decided in their wisdom they're
15 going to just put a fee on storage water, which had never
16 been done before, it was not authorized by the
17 legislature, and they did it. So it cost us, what, 2 or
18 300,000 year. We tried to fight it, you know, we're not
19 going to fight it. So how do we know with this thing,
20 with the financial information that's out there, that our
21 constituents are not going to be adversely affected
22 financially if this thing is not viable. So we have an
23 obligation to them as well, I think, to look at this and
24 say "Hey, wait a minute," you know.

25 MR. ABERCROMBIE: Yeah, from the business plan

1 perspective, I agree, I just -- I would advocate that you
2 do, you know, that everybody has an opportunity from the
3 business plan perspective. Anyway, Page 5 I listed -- I
4 already talked about it starting at the beginning of
5 that, the MOU to start negotiating -- you know, some sort
6 of contract that will outline staff time and how it's
7 compensated for for different things that need to be done
8 as the project moves forward. And, you know, obviously
9 we're focusing on, you know, where we're starting first,
10 Fresno and whatnot, but everybody, Chowchilla Water
11 District there. Those are the two contacts. David is
12 for the San Jose to Merced team. Ron Price is who's
13 doing it from the project management team from the
14 authority side trying to get this thing underway.

15 We talked a little bit about the Wye options,
16 that was Page 6, and I think we covered that probably
17 pretty well. I talked about that timeline, particularly
18 the next two to four months, the idea I would really like
19 to be able to refine what these Wyes look like, add any
20 that is appropriate, so that they can go into the draft
21 EIR document. Go in through the whole process, be
22 evaluated, you know, in its entirety, you know, and on
23 its merits.

24 I don't know if I touched that schedule, but the
25 San Jose to Merced document draft will probably be out --

1 late 2012 is probably a little optimistic, so it will
2 probably be early 2013. And we want to get -- you know,
3 they've done a lot of work already, but they've got to
4 fold the Wye information into it and any new stuff about
5 the Wyes into it. But that's roughly the time frame.
6 And I've talked a little bit about the opportunities
7 about what we can do in terms of redefining the Wyes and
8 how that might work.

9 That takes us to 9, and we talked a little bit
10 about that, and I won't say anything more than that.

11 BOARD MEMBER UPTON: You're on single pages and
12 we got double pages.

13 MR. ABERCROMBIE: Oh, I'm sorry. I'm
14 miscounting you, that's because I've got cheat notes on
15 the bottom. Sorry, I'll start by page numbers. Hybrid
16 map, and then we went to milestones, which should be
17 about Page 3 for you, maybe 4, milestones, right there.

18 BOARD MEMBER TAYLOR: Page 6. 6 is the Wyes.

19 (Off the record.)

20 MR. ABERCROMBIE: Page 4 has milestones at the
21 top. So Page 5 was, you know, kind of outlined some of
22 what the documentation we had from the district earlier.
23 And Ken and Doug sound like they -- sounds like you both
24 shared some information, and I'd like to make sure that
25 gets updated. And we talked a little about that, like

1 cue flows and things, and hopefully that answers that
2 question.

3 Page 6, it was really just the map, and it was
4 in here from the standpoint is I need a map, and I've
5 charged the team with putting a map together like this.
6 This out of the EIR doc, but it's got all your canals on
7 it, it's got our alignments on it, but what's not on this
8 map are the roads. Because then you can sit there and go
9 "Okay. Where are your structures," so that we know where
10 your guys are driving. We can look at the Wyes, we can
11 look at the impacts, we can say "Okay. Well, is that
12 formal county crossing good enough, or do we need to
13 consider something else," and then go from there.

14 And then most of this was -- you know, the next
15 several slides were all about the points that Doug has
16 brought up and kind of asked me about. And if I did my
17 job right, I answered them kind of the way some of these
18 bullets are listed, but -- you know, in terms of how we
19 might accommodate them. You know, there's not a lot of
20 detail here specifically, because it was just meant to be
21 help to be able to talk through, talk through it.

22 Let's see here. I'm going to switch documents,
23 make sure I didn't miss anything that might down below.
24 Because I did ask about updating the cues and that
25 information, that was one of the talking points I had

1 here down blow. I think we covered most things, service
2 to constituents and so on.

3 You know, we're in a bit of an awkward spot. We
4 will be trying to address your comments to the
5 Merced-Fresno documents, and they'll be in the final,
6 but, again, because you're in the Wye, you know, some of
7 the answers aren't going to be complete, because, you
8 know, it's being rolled over. So we will be addressing
9 them, and some of that may very well be, you know, City
10 of Merced, Fresno, or something kind of like that.

11 BOARD MEMBER UPTON: What's the delineation
12 point north of Chowchilla? In other words --

13 MR. ABERCROMBIE: Their document will go all the
14 way up to Merced.

15 BOARD MEMBER UPTON: From where?

16 MR. ABERCROMBIE: From San Jose. So it will go
17 through the Wyes and all the way up to Merced.

18 BOARD MEMBER UPTON: I know that, but the Merced
19 to Fresno document is split, it's from Avenue 17 into
20 Fresno, and then don't you have a little thing from the
21 City of Merced south to, like, Arboleda or something like
22 that?

23 MR. ABERCROMBIE: Oh, okay. Yeah, about there.
24 The road crossings aren't on here. Yeah, about
25 Buchanan-Hall Road, about.

1 BOARD MEMBER UPTON: Okay.

2 MR. ABERCROMBIE: You know, roughly in terms of
3 the Wye, so from about there up.

4 BOARD MEMBER UPTON: Okay.

5 MR. ABERCROMBIE: You know, if we were really
6 ambitious, we could certainly look the some things
7 farther north, but that's probably pretty well dialed in.

8 BOARD MEMBER TAYLOR: What's the chances of this
9 thing stopping and not being funded?

10 MR. ABERCROMBIE: Well, my personal opinion is,
11 you know, we'll will go through this dry spell, like most
12 dry spells, you know, that happen occasionally when
13 partisan politics kick in. And, you know, Dan Richard
14 has kind of been talking a little bit about this, at some
15 point, I don't know how he'll -- whether it will be more
16 of a press release that he does or whatnot. He talks
17 about his experience in BART and how federal funding came
18 and went over his time frame, but that, you know, they
19 still plan and you still do the work and then, you know,
20 once the bickering gets over with, they get back to work
21 and, you know, additional monies come. You know, that's
22 a business plan question. I think the best way to answer
23 it is in terms of what LaHood said when he came out here,
24 you know, "We're behind this project. We want to see it
25 happen. We want to see high-speed rail happen in the

1 United States." He talked about it being, you know, just
2 a few years ago how bipartisan transportation and
3 high-speed rail was, and he says, you know, he expects it
4 to happen -- you know, be that way again. Whether it
5 will be this year, next year or three years from now,
6 nobody necessarily knows that.

7 BOARD MEMBER TAYLOR: Do you need further
8 funding to even start, or do you have enough money to
9 actually drive a stake in the ground in Fresno?

10 MR. ABERCROMBIE: No, we have money to start.
11 That money -- you know, Melissa talked about that, we
12 have an agreement, it's written. We have the money to
13 build from Madera down to the outskirts of Bakersfield.

14 BOARD MEMBER TAYLOR: And you will do that
15 regardless if other funding is coming forthwith or not?
16 I mean, we could actually end up with a rail from Madera
17 to Bakersfield?

18 MR. ABERCROMBIE: Well, that kind of goes back
19 to the independent utility thing and so on, but, you
20 know, that covers roughly a five-year period.

21 BOARD MEMBER TAYLOR: Will that come with a
22 train or just the rail?

23 MR. ABERCROMBIE: We have -- there are some
24 money set aside for different things. That money is
25 meant to build the infrastructure the track, it was

1 not -- and I don't know all the set asides, but the
2 contracts are written, or the money as we've laid it out,
3 is for building the track and structures, not a train.
4 Now, when we talk about independent utility and we get to
5 that step, you remember I mentioned the idea that Amtrak
6 could run on it or it could be additional service from
7 Amtrak, you know, that's where, for example, the trains
8 may come from. That's five years down the road should
9 that happen, you know. Obviously, a lot can change in
10 five years.

11 BOARD MEMBER UPTON: In regards to that, do you
12 have any agreements that allow you to work on the Union
13 Pacific right away?

14 MR. ABERCROMBIE: I don't think we have any
15 formal agreements with Union Pacific or BNSF at this
16 stage. I know that they've been doing dialogues, you
17 know, and talking about it, you know, and how these
18 things could come forward, but I'm not aware of any
19 formal -- anything signed in formal agreement. There may
20 be, you know, a formal agreement that "Yeah, we will meet
21 and talk and cooperate," but in of "We will allow you to
22 do this or build this over our freeway" -- or "over our
23 railroad," I don't think anything like that exists right
24 now, unless you know anything different, Melissa?

25 MS. DUMOND: No, that's consistent with my

1 understanding, but I do know that the dialogue is sort of
2 ongoing with UP and BN, so it's not as if the authority
3 is not talking with them.

4 MR. ABERCROMBIE: Or them us, you mean?

5 MS. DUMOND: Uh-huh.

6 MR. ABERCROMBIE: So just in terms of draft
7 comments, they will be formally written -- try to be
8 answered as best as possible, knowing that, you know,
9 most of the district and your comments are going to be
10 reflected in the concerns about the Wye, and that is
11 moved into the other documents.

12 Gave you a little bit -- should be about Page 9
13 talks about the EIR schedule, and I touched on that.

14 Page 10, that was one of your things that you
15 brought up, and I think we talked about that. You've
16 asked a couple of the FOIA questions, and I have a little
17 bit of homework on that with regards to the seven pages,
18 or whatever.

19 BOARD MEMBER UPTON: Okay.

20 MR. ABERCROMBIE: So that would be my
21 presentation. We did cover most of it, so I appreciate
22 that, but giving me the opportunity to flip through it
23 too. You know, I think -- oh, look what I got on the
24 back of my -- I thought I had printed some of these,
25 though it really didn't -- it didn't particularly up at

1 this point, I had a couple of cross-sections on the back
2 of my document where it showed typical type county road
3 overcrossings, which have two 12-foot lanes, 8-foot
4 shoulders and a 5-foot sidewalk at this point in time.
5 So, you know, that's 20 foot each way, essentially. So
6 in terms of farm equipment, I think that was what I was
7 thinking about when I printed this up. The other thing
8 that it does show here on one of -- this document is kind
9 of the way they're staged, and I don't recall how the
10 county had responded to it, the idea that we'd build the
11 road off to the side and then close the other one, or
12 whether they want us to shoo-fly the road and then build
13 the other. Different counties have approached it a
14 little bit different, but the idea is the county roads
15 would be -- for the most part, remain open while
16 construction is going on. Now, we can certainly work
17 with the counties to propose that maybe it's every other
18 one or -- you know, so that we're not -- we can't tear up
19 and eliminate all the east-west or north-south crossings
20 at one time, that has to be thoughtfully staged out.

21 So, Melissa, FRA, is there anything you want to
22 add?

23 MS. DUMOND: This is Melissa. I did want to
24 thank you again for allowing us to meet with you at your
25 board meeting. I think this has been pretty productive.

1 I would just encourage the opportunities going forward to
2 meet and discuss the project and share information to
3 ensure that we have the appropriate information included
4 in the environmental analysis and your concerns are -- so
5 I don't know whether the board meeting is always the best
6 opportunity to do that or if we can talk next step for
7 the next opportunity to discuss this with you.

8 BOARD MEMBER UPTON: We're part of the
9 coordination process, so that's the way we prefer to do
10 business. I was wondering, Margaret, do you have
11 anything you want to add, you or Dan?

12 MS. BYFIELD: I'm not sure people can hear me
13 real well.

14 MR. UPTON: We're close enough now, so go ahead,
15 talk loud.

16 MS. BYFIELD: No, I think it's very good, that
17 the FRA wants to continue the conversation, that's very
18 good. Originally one of the things I wanted to say is
19 that one of the primary concerns is that the issues that
20 are being discussed here today are things that really
21 should have been taken into account early on in the
22 process, so that they could have had help in determining
23 what the alternatives are. I think that the problem at
24 this time is just simply that a lot of decisions have
25 been made without considering this information. And the

1 reason is important, it's not insignificant, because the
2 Chowchilla Water District, if you didn't have the water
3 and you didn't have this very sophisticated delivery
4 system, you wouldn't have a community and you wouldn't
5 have a farming industry, which is both a community*CHX.
6 So they really are an integral part of the backbone of
7 the Central Valley. And so the issues -- you know, there
8 are some pretty serious issues I think that should have
9 been taken into account, should have been made in the
10 selection of alternatives. And even that's just kind of
11 a big hurdle at this point, because how do you go back
12 and redo the draft environmental impact statement without
13 doing a supplement to incorporate those concerns. So
14 I'll just lay that out there so that everybody is aware
15 of that, but that's still one of the concerns.

16 MS. DUMOND: Margaret, can I ask, this is
17 Melissa Dumond, did the Chowchilla Water District submit
18 comments on the board's alternative analysis process?

19 MS. BYFIELD: I don't know, you have to ask
20 Chowchilla Water District.

21 MR. WELCH: We submitted comments on the Merced
22 to Fresno draft EIR-EIS.

23 MS. DUMOND: Okay. All right.

24 MS. BYFIELD: The alternative analysis, when did
25 that come out? What year did that come out?

1 MS. DUMOND: Jeff, do you remember the date on
2 the AA?

3 MR. ABERCROMBIE: No, I would have to defer to
4 Dick, because we've had multiple ones over the time
5 period. Do you know what our -- your AA's and your
6 supplemental AA's were over the last couple of years for
7 Merced-Fresno?

8 MR. WENZEL: The AA, I believe, was wrapped up
9 in spring, the fall -- the winter, I think it was like
10 2010, December. It was like 2009-2010, and then the
11 supplemental came in by the summertime of 2010.

12 MR. ABERCROMBIE: You've only had one AA in --

13 MR. WENZEL: We had one AA and then we had a
14 supplemental.

15 MR. ABERCROMBIE: One supplemental?

16 MR. WENZEL: Right. So I think they were, like,
17 winter and then six months later were the supplemental.

18 MR. WELCH: Well, December 17th, 2009, I wrote a
19 letter to Carey Bowen, and in that it analyzed the
20 impacts of different alternatives, A-1, A-2 and A-3, on
21 the Chowchilla Water District.

22 MR. ABERCROMBIE: Could you give me the date
23 again, Doug?

24 MR. WELCH: December 17th, 2009. It addressed
25 the amount of places where it crossed our facilities and

1 the needs for overpasses, underpasses.

2 MR. ABERCROMBIE: That looks like that times --

3 MR. WELCH: Replacement of our pipelines,
4 replacement of our canals.

5 MR. ABERCROMBIE: I'd have to put it in timeline
6 with the AA's and whatnot, but that looks, either just
7 before or in between some of the conversations you had
8 with Ken, Ken Swanson, to be clear, instead of Ken, the
9 guy no longer there.

10 Anything else, Melissa?

11 MS. DUMOND: No. Just, you know, thank you
12 again. It was a productive working session, we
13 appreciate your time, and thank you very much.

14 MS. HUMPHREY: Just a quick clarifying question.
15 So did I hear correctly that a special board meeting
16 setting is the best way to meet and discuss --

17 BOARD MEMBER UPTON: Yes.

18 MS. HUMPHREY: Do you guys have a district
19 engineer or somebody that --

20 BOARD MEMBER UPTON: He's right here, Doug
21 Welch.

22 MR. ABERCROMBIE: He's not an engineer, but he
23 knows everything we need to know.

24 BOARD MEMBER UPTON: He'll refer you to whoever
25 you need to --

1 MR. WELCH: We have an engineering firm of
2 Parsons, Pecchenino & Fremming --

3 BOARD MEMBER UPTON: Another Parsons, unrelated.

4 MR. WELCH: -- that we utilize for our
5 engineering.

6 MR. ABERCROMBIE: That might be -- well, I guess
7 that's the next question. What do we want to tackle
8 next? I mean, I threw out the idea of overlaying all the
9 maps and starting from there. You tell me what you would
10 like to do and let's see what we can put together.

11 MR. LEVERENE: Let's think about the timeline,
12 because the beginning of next month we have to start
13 working on our supplemental AA, and to do that, we have
14 to know what alignments are we going to be studying. We
15 already have three, which we're going to have to study
16 those. We can tweak them a little bit one way or the
17 other over the next couple of weeks, but by the first of
18 March we pretty well need to know what our footprints are
19 going to be. Now, there's an opportunity to look at some
20 alternative alignments as well. Chowchilla has suggested
21 a couple of alternative alignments, which I'm not sure
22 whether they're going to survive over the next couple of
23 weeks or not, but we need to establish the alternative.
24 We won't be able to do a lot of analysis between now and
25 then if we are to meet the timeline that we've been given

1 to establish those Wyes. So what I would suggest is that
2 we now have this map here, and that's information we
3 didn't have, we can use that to inform ourselves about
4 impacts that we previously maybe didn't know about and
5 maybe tweak these alignments.

6 MR. WELCH: This map, you guys got -- you have
7 an auto CAD drawing of our --

8 MR. ABERCROMBIE: He doesn't have it, the San
9 Jose to Merced team.

10 MR. WELCH: No, that's who I gave it to, I'm
11 pretty sure. We gave them all of our canals and
12 actually --

13 MR. ABERCROMBIE: The Merced to Fresno team has
14 had it back in 2000, whatever, and I think maybe the last
15 time we were here we actually took one with us.

16 MR. WELCH: We gave to Parsons a copy of -- we
17 scanned a whole bunch of our --

18 MR. LEVERENE: We need to go back and look at
19 that again and make sure that if there's any opportunity
20 to avoid impacts that we didn't see before, even though
21 it might have been in front of us, we do that. The other
22 thing is, though, if there are additional alignments that
23 crop up, and I would certainly hope there's not many,
24 because we can only study so many, it would be good to
25 get input from CWD for the new alignments that we would

1 consider. It's a short period of time, but we might, to
2 some degree, avoid some of the problems we had the last
3 time.

4 MR. WELCH: Can I ask a question on that, on the
5 Wyes? Is there a reason that -- I realize that you have
6 a criteria that's there that says you have to get from
7 San Francisco to L.A. in a certain amount of time, but
8 for the Wyes turning from San Jose to -- going back up to
9 Merced and Sacramento, is there a reason you couldn't
10 slow the train down a little and compress those Wyes
11 instead of having them so big and long?

12 MR. ABERCROMBIE: The ones that turn north we've
13 tried to do that to. The one that goes from north to
14 west or west to south or east to south, I mean the same
15 way, depending on the train, we are so close to our 2
16 hours 40 minutes right now, we've done the best we can.

17 MR. WELCH: I'm not talking about --

18 MR. ABERCROMBIE: We have. We've moved -- we've
19 looked at a couple of those that are all the way down to,
20 like, 150, which are significant.

21 MR. WENZEL: We've gone down to 150, and we
22 flirted with 120, but you have to draw the line
23 somewhere, because otherwise you're putting a lot of
24 money --

25 MR. ABERCROMBIE: Doug, I appreciate it. We've

1 done that. We can talk about that a little more in terms
2 of where they are and where they aren't, because where we
3 have that flexibility it is appropriate to exercise it.

4 MR. WENZEL: We took advantage of it in trying
5 to lay down where we do have one of those Wyes.

6 MR. WELCH: It's apparent that there's a
7 difference in the radius on some of the others.

8 MR. ABERCROMBIE: On some of them, yeah. What
9 David talked about in terms of doing that, you know, I
10 threw out the idea of Road 13. We got into, at break, a
11 little bit of discussion about 152. And 152, as it
12 presently stands, is 450 feet to the south of 152. I
13 don't like it, I've got to get to county and Caltrans --
14 to -- I'm working on it. South side.

15 MR. WELCH: Can you explain the 450 feet, why it
16 can't be 200? I mean, I've never understood that, other
17 than you don't want to build an overpass over the Highway
18 152 cross-over.

19 MR. ABERCROMBIE: I will make a quick sketch of
20 what Caltrans is -- what they call their L-9 interchange,
21 and Caltrans' L-9 interchange puts us at about 450 feet.
22 Their interchange for 152 -- and L-9 is modified diamond
23 interchange, meaning you've got an on and off ramp that
24 looks like a diamond, but it also, to increase capacity,
25 how many vehicles you can put through it, they have a

1 loop ramp, so that you eliminate the left turns. So in
2 each of these corners you have a loop ramp. If those
3 weren't there, you could shrink that in and you could be
4 closer, but this is what the freeway agreement calls for,
5 and that puts us out here. And they have about --
6 there's -- if I got the number right, there's
7 approximately nine of these, nine interchanges called for
8 between 59 and including 59 and 99. To swing this out
9 like they did at Fairmead, you basically have to go back
10 almost a mile, not quite, but almost a mile and if you
11 were to try and -- so that you could be closer, what you
12 end up doing is you have to swing 152 out and back in,
13 and then try and build that, you know, that interchange
14 still and, you know, obviously that impacts farm land
15 too. If we have to rebuild almost a mile for every
16 interchange, now we've essentially rebuilt all of 152.
17 And, you know, trying to be fiduciary about it, there's
18 trade-offs to that. The county has said -- let me
19 rephrase that. I've had county supervisors tell me they
20 don't need all these or they could modify these, but
21 we're sitting outside as a third party and we need the
22 county and Caltrans to kind of spur this long. I'm
23 trying to spur this along, you know, it's a political hot
24 potato, sometimes people don't like to be involved in
25 political hot potatoes, and so it hasn't come to

1 fruition. To be closer we need this freeway -- you know,
2 bottom line is to be closer we need this freeway
3 agreement modified.

4 The other discussion about this, I'll bring up
5 in terms of 152, is we don't like being on the south
6 side. That's where we did it, because we had already
7 studied some of that, because when the San Jose to Merced
8 team had looked at it, they came along 152 and they swung
9 out to 21. And so when we added the full 152, they just
10 kept that same alignment, you know, on straight out, but
11 that was on the south side of 152, and that's why we
12 picked the south side. It would make more sense for the
13 authority infrastructure-wise not to try and do this and
14 have to build all the elevated structures that we have to
15 build to be on the south side. It would be better to
16 come in from Henry Miller and then come on into the north
17 side of 152.

18 MR. WELCH: So why don't you build a high-speed
19 rail on the northern lines, and then just build another
20 set of lanes on the south of 152. Run the high-speed
21 rail on the east-west, the northern lanes.

22 MR. ABERCROMBIE: You still have these types of
23 problem. You know, I'd have to defer to the road crew,
24 and I'd have to think about this a little bit before I
25 pass judgment. I think I understand what you're saying,

1 then you would only rebuilding one piece of it. I got to
2 look at the right of way and a few other things, because
3 right now -- I don't think we could build them just on
4 the north -- like I said, I have to look at the north --
5 I'm not sure we can just build them, for example, on the
6 north side.

7 MR. WELCH: Or the south side or in the center.

8 MR. ABERCROMBIE: In those lanes, because right
9 now there's essentially no median there, there's 15, 20
10 feet max, basically enough for the turn pockets.

11 MR. WELCH: I'm not saying that you wouldn't
12 have to acquire another hundred --

13 MR. ABERCROMBIE: You would have to push it all
14 the way out this way. What we would be put in a position
15 to do is we would end up having to widen 152 out enough
16 to have a hundred foot or 60 foot plus median, and we end
17 up rebuilding the whole thing again, and that's back to
18 rebuilding the whole thing again. You couldn't be on the
19 north side of it, because you're going to interfere with
20 the ramps, and it puts you -- it would force you to be in
21 the median, and then we're back to rebuilding pretty much
22 the whole piece of 152. I'm speaking off the top of my
23 head, because I know we looked at this, and it's been
24 months and months and months since I looked at it. But
25 the question is a valid one, and those are the things

1 that, I guess, I'm getting at in terms of looking and
2 talking about what refinements we can put onto these
3 Wyes. You know, that's what David was referring to, you
4 know, he'd like to see them in three or four weeks, but I
5 know we're not going to --

6 MR. LEVERENE: To meet that schedule that we've
7 been given.

8 MR. ABERCROMBIE: I understand. And his
9 schedule is what I referred to as June. I think we're
10 going to -- you know, we can survive if we're maybe in a
11 month longer, but the point is we need to get Caltrans
12 and the city together. And, you know, he can get started
13 on the ones that are there if we decide we're going to
14 tweak them a little bit. And then if there are other
15 ones that are on there, we obviously have to decide those
16 soon, too, because they all take a little bit of time.

17 MR. UPTON: We would appreciate it knowing if
18 you get something from the City of Chowchilla or from the
19 Southern Madera County Farm Bureau if they have
20 something, because neither one of them we have a lot of
21 communication with.

22 MR. ABERCROMBIE: Well, the City of Chowchilla,
23 just quickly, hasn't -- well, farther away is better,
24 obviously, to their thinking. We discussed Road 13 with
25 them, and they go "Well, you know, we could do that," you

1 know, versus "hell no." They said, "Well, if you're
2 going" -- "We can tolerate that," I'm sure they're going
3 to fight it.

4 BOARD MEMBER UPTON: You're sure about that,
5 huh?

6 MR. ABERCROMBIE: I'm just telling you what they
7 told me, whether or not that pays out, that was one
8 meeting. They also suggested pushing the east Chowchilla
9 loop out another half mile or so, so it wasn't right up
10 against the golf course. You know, I mean, we're going
11 to have to go out and try and develop that a little bit.

12 BOARD MEMBER UPTON: Put it on Vince.

13 BOARD MEMBER TAYLOR: I mean, you've actually
14 circled town and hit every piece of property I've got.

15 MR. ABERCROMBIE: You know, we have settled on
16 nothing at this point. They also, which I'm a little
17 skeptical on it, just because we -- BNS has been
18 problematic for us all along to the north, particularly,
19 though it's not a bad idea, we just got to kind of run
20 the numbers through, is staying on the BNSF just a little
21 bit longer and then, instead of changing down at about
22 152, coming out and going from BNSF to UPR north of
23 Chowchilla about along the Chowchilla River. We're going
24 to have problems with Chowchilla River. We're going to
25 have problems with, I think, a little bit of wetlands

1 there.

2 MR. WELCH: So on Road 13 --

3 MR. ABERCROMBIE: There's challenges there, and
4 one of the problems is because of the prisons, what it
5 does is -- and maybe it's good, maybe it's bad, you know,
6 it spreads that diamond out more. And I don't like that
7 and I just -- I have a feeling that most people won't
8 like it. And the big -- one of big downsides for the
9 authority, too, is it increases the impacts, period,
10 because there's more track miles, period.

11 MR. WELCH: So on the Road 13 that you're
12 possibly looking at, it's on the east side or the west
13 side of Road 13?

14 MR. LEVERENE: Which would be better?

15 MR. ABERCROMBIE: Well, you know, somebody said
16 the county will give us the right of way, but I'll
17 believe that when I see it. The point is, we could be,
18 as David said, we could be on either. I know you've got
19 a canal, I think --

20 BOARD MEMBER UPTON: We've also got a recharge
21 facility there.

22 MR. ABERCROMBIE: -- on the east side of Road
23 13, I believe, right?

24 BOARD MEMBER UPTON: Does that mean Fagundes
25 gets the bank facility, then?

1 MR. WELCH: It would be better on the east side
2 as far as hitting --

3 MR. ABERCROMBIE: It would be better on the east
4 side of 13?

5 MR. WELCH: Yes.

6 BOARD MEMBER UPTON: That was the thing,
7 Fagundes said if it goes through his property he wants
8 the maintenance facility.

9 MR. ABERCROMBIE: The maintenance facility won't
10 be decided for 18 months, 2 years, it's got to get
11 through all the EIR docs, including this one, and then it
12 will get narrowed down.

13 BOARD MEMBER TAYLOR: Well, depending on what
14 route you pick here, this site will be --

15 MR. ABERCROMBIE: Well, let's -- let's -- let's
16 develop that just a minute, and I'm going to be about out
17 of time, but let's put it on 13.

18 MR. UPTON: I don't want to put it on 13.

19 MR. ABERCROMBIE: I know you don't, but put it
20 on 13, because that's the only place Fagundes works, or
21 24, but we know 24 is an awful crappy shot either. So
22 let's say we continue to push 152, and we make 152 --

23 (Inaudible conversation)

24 MR. ABERCROMBIE: Well, besides the City of
25 Chowchilla, I've heard there's a number of farmers that

1 don't like that one either, but I will just say if we
2 were to try and pursue what the county has recommended,
3 the Farm Bureau has recommended go on 152, you could
4 extend that leg down to 152. Similarly, you know, though
5 it makes much less sense for us to extend that leg down
6 to, I think, 21, but all those things are possibilities.
7 Any one of them has bad sequences that -- well, has
8 impacts that have to be looked at and considered and
9 whatnot.

10 BOARD MEMBER UPTON: Before you leave, I need to
11 bring up one thing that would be a good idea for you
12 folks to do. You sent out these things, requests for --

13 MR. ABERCROMBIE: Requests for access.

14 BOARD MEMBER UPTON: -- access to property, and
15 people have not sent them in or sent in refusal, and your
16 consultants pay no attention to that and come on the land
17 anyway. So the water district has taken a position,
18 you'll get a letter, you're not authorized to be on any
19 district property to access the land unless we get
20 something from the landowner saying "Yeah, it's okay,
21 these people can come on." I got to tell, you better
22 tell your consultant, that's not a really good life
23 choice to come on.

24 MR. ABERCROMBIE: I certainly did. DeJager
25 called me, I had a conversation with him and Dick heard

1 about it, didn't you, Dick?

2 MR. WENZEL: Yes.

3 MR. ABERCROMBIE: You know, that's horrible for
4 us and it -- in fact, Dick, I'll put you on the spot, I
5 asked you guys to update your procedures on how to avoid
6 that, and I have not seen that, so if you could --

7 MR. WENZEL: Sure. We will definitely make sure
8 you get that.

9 BOARD CHAIRMAN MADDALENA: Pretty much we
10 discussed F, is there anything on F that we need to
11 continue discuss on that?

12 MR. ABERCROMBIE: Well, did we decide when we're
13 meeting again?

14 BOARD CHAIRMAN MADDALENA: We haven't discussed
15 if the project fails, if, say, you start the project and
16 get partway and it fails, I mean --

17 BOARD MEMBER TAYLOR: Amtrak is going to use it.

18 MR. ABERCROMBIE: Well, you know, we have money
19 for the construction costs we have, and in that money we
20 will be doing all the utility relocation. Next step, you
21 know, when we get the next chunk of money and we build
22 this piece, you know, into Merced, same thing. You know,
23 all the money that's there for construction is going to
24 be there to do all the mitigation that is necessary so
25 that you guys operate it. We won't get halfway built,

1 you know. In other words, you know, cut the swath and
2 not replace any utilities. Just kind of like I said the
3 idea that before we disrupt them we've got to realign
4 them, it's the same principle. They'll get realigned
5 before we cut the swath.

6 BOARD MEMBER MANDALA: But when you take like an
7 east-west road, whatever property it's going to, you just
8 cut the value of that property. If you don't ever build
9 it, you're sitting here with a piece of property that
10 when you go to sell it you got to tell the people the
11 high-speed rail could come through there.

12 MR. ABERCROMBIE: And there are state laws that
13 apply to that situation for damages.

14 BOARD MEMBER MANDALA: Okay. I'd just hate for
15 you to pick a route, and now we're sitting here with this
16 route and it never happens in 30 years, you got a piece
17 of property that ain't worth nothing.

18 MR. ABERCROMBIE: That are state laws that cover
19 some of those situations.

20 BOARD MEMBER TAYLOR: Once they pick a route,
21 within a year they're going to pay you your money.
22 That's what he said. That's what he said, within a year
23 you get your money. Once they pick a route, within a
24 year you get your money, so if they never do it, you got
25 your money and you're just farming the railroad property,

1 correct?

2 BOARD MEMBER MANDALA: I don't see that
3 happening if they got no money.

4 MR. ABERCROMBIE: That would be -- that was
5 under the assumption we were moving forward. That was
6 the typical case as we would be continuing to progress.
7 Could there be the case that we have a route and we don't
8 build for five years and you don't get your money for
9 five years, possibly.

10 BOARD MEMBER TAYLOR: You didn't mention that.

11 MR. ABERCROMBIE: I didn't, so I'm glad you
12 clarified it for me, or he clarified it for me. Our goal
13 is, generally speaking, is to secure the right of way
14 sooner than later and to continue to move forward with
15 it. Now, on the other token, we're not interested in
16 being landlords, so there is that balance between how far
17 out do you want to buy. There is a prudent amount to
18 that and there are -- when you select a route and there
19 are provisions in state law, for example, that you need
20 to sell, we're not ready to buy your property, but you
21 can come to us and say "I need you to buy my property
22 now, because I'm liquidating my assets" for whatever
23 reason, we move forward with it at that time. So there
24 are things that protect the property owner with regards
25 to that, even though we're not wholesaling buying the

1 whole corridor at that given time.

2 BOARD MEMBER TAYLOR: Bet you'd be easy to deal
3 with then.

4 MR. ABERCROMBIE: You know, our board's attitude
5 is we're going to do it right, and they want to come at
6 it from the standpoint of we're making people whole.

7 BOARD MEMBER MANDALA: We'd just as soon you not
8 pick an east-west route until you're ready to go.

9 MR. ABERCROMBIE: Being that this is 2000 -- you
10 know, late 2013 that we will be picking a route, you
11 know, that's a couple of years from now, we will have a
12 change in election, we may even have a transportation
13 bill by then, and that will tell us a lot, but politics
14 is politics.

15 BOARD CHAIRMAN MADDALENA: We're going to go to
16 No. G. Has that been taken care of, Federal Rail
17 Administration request?

18 BOARD MEMBER UPTON: Yeah, I think we covered
19 that.

20 BOARD CHAIRMAN MADDALENA: We'll go to H, is
21 there any further discussion on anything we've missed?
22 If there hasn't, I'd like to thank everybody for being
23 here.

24 MR. ABERCROMBIE: We got to do 6.

25 BOARD CHAIRMAN MADDALENA: Okay. I can still

1 thank everybody for being here. 6, scheduling a
2 follow-up meeting.

3 MR. ABERCROMBIE: You know, I think it would --
4 well, you know, I would like to be able to sit down, and
5 I don't know if we can have a focused discussion, if
6 you're willing to have a focused on what the alignments
7 are now, or any of the proposals with regards to the
8 north side of 152, south side of 152 and what we need to
9 do. And I'd like to, though it might be a little
10 premature, whether it's that next meeting or the meeting
11 thereafter, talk about the maps that are overlaid, so
12 that we can see roadways, canals and alignment all on the
13 same map and talk about the trip travels and things like
14 that, what facilities, you know, are appropriate
15 potentially to upgrade to take care of some of those
16 things and so on.

17 BOARD MEMBER UPTON: Why don't you talk with
18 your people and do your due diligence and call Doug and
19 see if we can set up the next meeting whenever you're
20 ready.

21 MR. ABERCROMBIE: How much time do you think
22 you're going to need?

23 MR. LEVERENE: For that meeting, I think we have
24 to have some discussions with you --

25 MR. ABERCROMBIE: Okay. Hopefully, it will

1 be --

2 MR. LEVERENE: -- to determine how long we need.

3 MR. ABERCROMBIE: -- only a few weeks away and
4 we will get with Doug and see what we can get scheduled,
5 and we won't commit to a day at this time, Melissa,
6 unless you want to see a date.

7 MS. DUMOND: I just would like to have mutual
8 understanding of when we're going to talk next on this,
9 and I think you guys have accomplished that, so I think
10 what I heard was Doug mentioning you all need to
11 coordinate off-line a little bit, and we'll set a date
12 for the next meeting.

13 MR. ABERCROMBIE: 10/4.

14 BOARD CHAIRMAN MADDALENA: Okay. If there's
15 nothing else, thank everybody for coming, and I'm going
16 to adjourn this meeting at 12:08.

17
18 (Whereupon, the proceeding concluded at
19 approximately 12:08 p.m.)
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1 State of California,
2 County of Fresno.

3 I, SAMERA ALYAFaIE, License No. 12933, a
4 Certified Shorthand Reporter of the State of
5 California, do hereby certify:

6 That the said proceeding was taken before me
7 as a Certified Shorthand Reporter at the said time
8 and place and was taken down in shorthand writing
9 by me;

10 That the said proceeding was thereafter, under
11 my direction, transcribed with the use of
12 computer-assisted transcription, and that the
13 foregoing transcript constitutes a full, true, and
14 correct report of the proceedings which then and
15 there took place;

16 That I am a disinterested person to the said
17 action.

18 IN WITNESS WHEREOF, I have hereunto subscribed
19 my hand this 28th day of February, 2012.

20
21 
22 Samera Alyafaie CSR, RPR
23 License No. 12933
24
25

CONDENSED

TRANSCRIPT

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IN RE:)
)
 CHOWCHILLA WATER DISTRICT)
)
 BOARD MEETING,)
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)
)

Chowchilla, California February 15, 2012

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CHOWCHILLA WATER DISTRICT BOARD MEETING
 REGARDING CALIFORNIA HIGH SPEED RAIL AUTHORITY

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Reported by:
 Samera Alyafaie
 CSR, RPR
 License No. 12933

1 APPEARANCES

2 FOR THE CHOWCHILLA WATER DISTRICT:
 3 DAN MADDALENA
 4 KOLE UPTON
 5 DOUG WELCH
 6 MARK WORLFSHORNDL
 7 MIKE MANDALA
 8 LELA BEATTY
 9 VINCE TAYLOR
 10 FOR THE CALIFORNIA HIGH SPEED RAIL AUTHORITY:
 11 JEFF ABERCROMBIE
 12 FOR PARSONS:
 13 DAVID LEVERENE
 14 SAMPATH GOOLLA
 15 FOR AECOM:
 16 DICK WENZEL
 17 FOR FEDERAL ROAD ADMINISTRATION (BY PHONE):
 18 MELISSA DUMOND
 19 CHRIS VAN NOSTRAND
 20 COREY HILL
 21

22 Also present at meeting was MIKE LYNCH, JOHN
 23 GARAMENDI, SHAY HUMPHREY, ALAN BOONE, MILLIE METTERS,
 24 DARIN LIPTON and BRANDON TOMLINSON. MARGARET BYFIELD AND
 25 DAN BYFIELD APPEARING BY PHONE.

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10 INDEX OF EXHIBITS
 11 (NONE)
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10 BE IT REMEMBERED, that on Wednesday, the 15th day of
 11 February, 2012, commencing at the hour of 9:00 a.m.
 12 thereof in the offices of Chowchilla Water District, 327
 13 South Chowchilla Boulevard, Chowchilla, California,
 14 before me, SAMERA ALYAFIE, a Certified Shorthand
 15 Reporter in and for the State of California, the
 16 following proceedings were held.
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<p>1 BOARD CHAIRMAN MADDALENA: Call to order this 2 meeting. 3 Item No. 2, public comments. The first 15 4 minutes is made available for comments from the public on 5 matters within the board's jurisdiction that's not on the 6 agenda. Each speaker will only be given three minutes. 7 It is requested that no comments be made during that 8 period on the items that are on today's agenda. Members 9 of the public may comment on items that are on today's 10 agenda when it's called. 11 No. 3, is there any addition to the agenda? 12 MR. WELCH: No. 13 BOARD CHAIRMAN MADDALENA: No additions, we'll 14 move on to No. 4. 15 MR. WELCH: I take it back. I think the 16 High-Speed Rail Authority, or FRA, wanted to make a 17 presentation. Why don't we make it after Item E, between 18 E and F? 19 BOARD CHAIRMAN MADDALENA: Okay. 20 BOARD MEMBER UPTON: Can we have it with a 21 caveat that some of it will probably be discussed during 22 our -- 23 MR. ABERCROMBIE: What I would hope to do is, 24 because what we put together -- this is Jeff Abercrombie. 25 What we put together, we tried to follow exactly your</p>	<p>1 the director of rail project development and deliver, and 2 then we have Chris Van Nostrand, who is with our legal 3 counsel. 4 MS. BYFIELD: This is Margaret Byfield. 5 MR. BYFIELD: Dan Byfield. 6 BOARD CHAIRMAN MADDALENA: My name is Dan 7 Maddalena, I'm a Chowchilla board member. 8 BOARD MEMBER MANDALA: Mike Mandaia, Chowchilla 9 Water District. 10 BOARD MEMBER WORLFSHORNDL: Mark WorlfsHORNDL, 11 Chowchilla Water District. 12 MR. WELCH: Doug Welch, general manager of 13 Chowchilla Water District. 14 BOARD MEMBER UPTON: Kole Upton, director. 15 MS. BEATTY: Lela Beatty, office manager. 16 MR. WENZEL: Dick Wenzel, the project manager 17 for High-Speed Rail project, Merced to Fresno. 18 MR. LEVERENE: Dave Leverene, the project 19 manager for the High-Speed Rail. 20 MR. GOOLIA: Sampath Goolia, engineering, San 21 Jose to Merced. 22 MR. ABERCROMBIE: And Jeff Abercrombie, Central 23 Valley High-Speed Rail manager. And for the sake of 24 those on the phone, you want to let them know that we 25 have both a court reporter and a recording audio for the</p>
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<p>1 agenda, and so, you know, where possible, if 2 we've got material that's associated with the particular 3 agenda item, we can flip to the handout and kind of talk 4 a little bit about it with what's there, if that works. 5 MR. WELCH: That's fine. The only other change 6 I wanted to do is I thought it might be more appropriate 7 to have Item 5(b), damage to facilities, before we talk 8 about Item 5(a), access. 9 BOARD CHAIRMAN MADDALENA: We'll just go to B 10 instead of A and then -- 11 BOARD MEMBER UPTON: I move we make those 12 additions and changes. 13 BOARD MEMBER MANDALA: I second that. 14 BOARD CHAIRMAN MADDALENA: Having heard from 15 Kole and a second, any discussion? All those in favor 16 say aye. 17 (Chorus of ayes.) 18 BOARD CHAIRMAN MADDALENA: Any opposed? 19 We'll go to No. 4 now, introduction of people 20 that's on the phone, and we need to go around the room. 21 Who is on the phone? 22 MR. WELCH: So, Melissa, you're on the phone? 23 Hello? 24 MR. HILL: This is Corey Hill from FRA. So from 25 FRA we've got Melissa Dumond. Again, I'm Corey Hill, I'm</p>	<p>1 meeting. For those that are on the phone that obviously 2 can't see, I want to clarify that that's there. Okay? 3 Thanks. 4 MR. WELCH: This is a board meeting of the 5 Chowchilla Water District. It's a public meeting of a 6 public agency. The meeting was properly noticed. Why 7 don't we go ahead and have the people in the audience -- 8 BOARD CHAIRMAN MADDALENA: People in the 9 audience. 10 MS. HUMPHREY: I'm Shay Humphrey, I'm with the 11 outreach team on the Merced to Fresno section. 12 MR. BOONE: Allen Boone with AECOM, engineering 13 manager for the Merced to Fresno section. 14 MR. LYNCH: Mike Lynch, AECOM. 15 MR. TOMLINSON: Brandon Tomlinson, assistant 16 general manager of Chowchilla Water District. 17 MR. GARAMENDI: John Garamendi, Jr. 18 MS. METTERS: Millie Metters. 19 BOARD CHAIRMAN MADDALENA: We're going to move 20 on to No. 5, initiation of the coordination process of 21 the California High-Speed Rail project between Federal 22 Railroad Administration, the California High-Speed Rail 23 Authority and Central Water District. 24 Okay. So we're going to go to B now, Damage to 25 Facilities - a discussion of the damage that the project</p>

<p style="text-align: right;">Page 9</p> <p>1 will have on existing Chowchilla Water District 2 facilities, canals, pipelines, ponds, structures and a 3 plan to mitigate damages.</p> <p>4 MR. WELCH: I thought before we talked about 5 damage to the facilities, we'd actually talk about what 6 the facilities look like. Chowchilla Water District has 7 150 miles of canals, about one half miles of those are 8 concrete lined, the rest are earth. The concrete lined 9 ones are by development just west here of -- well, it's 10 in Chowchilla, but it's just west of here. We have 50 11 miles of pipeline, most of that is anywhere from 52-inch 12 down to 18-inch. Anything 30 inches and above is poured 13 in place, cracked in place monolithic and to have 14 concrete poured back in the '60s it's -- well, I'll just 15 put it this way, the first year they poured like, I don't 16 know, five miles and Judge Eastman, who was the manager 17 at the time, said they have 2000 leaks the first year, so 18 a lot of cracking with the product. Anyway, most of our 19 system -- I mean, this is concrete lined, but most of the 20 system has a canal and then the heading of the canal with 21 some gates on it, and then a canal that takes off. And 22 those facilities are operated by what we call a ditch 23 tender, and there are seven ditch tender areas in the 24 district, and those seven guys have to patrol and operate 25 all the facilities in their canals.</p>	<p style="text-align: right;">Page 11</p> <p>1 MR. WELCH: Oh, headings? There's probably 2 about 20 headings of main canals, and then there's 3 probably another 20 of little, small laterals that come 4 off of them. And then this is a check structure that's 5 been modified. Instead of having just the one where 6 we've made it into what we call a long-crested weir, it 7 makes it so that you don't have to change the boards as 8 often. It reduces the labor costs in the district.</p> <p>9 And then finally we actually have what is called 10 passive upstream automation. This is a gate that was 11 developed at Cal Poly San Luis Obispo. It's called an 12 ITRC flap gate. The Chowchilla Water District did all 13 the beta testing for them. We've now installed probably 14 about 85, 90 of these gates. They -- just because of the 15 balance and the weight that you have versus the loss 16 through the water and the weight of the water, a bunch of 17 math and physics that I won't try to explain, because I 18 barely understand it when I'm looking at all the forces 19 and numbers, but it maintains an upstream water level 20 within about plus or minus two inches. And it 21 substantially reduces labor in the district and being 22 able to send the water down earlier. We also have -- I 23 think we have 15 now regulating ponds in the district. 24 These are normally either halfway down the canal or 25 two-thirds of the way down the way. And if there's extra</p>
<p style="text-align: right;">Page 10</p> <p>1 I'll just pass that around and you can look at 2 it.</p> <p>3 BOARD MEMBER UPTON: Doug, will you have these 4 available to give to them?</p> <p>5 MR. WELCH: Yeah, absolutely. And then we have 6 a typical check structure in the district. It's a 7 concrete structure, then with a center opening where what 8 we call stop logs or two-by-sixes are put in to control 9 the water height. As you send more water down the canal, 10 you -- we try to maintain the water level within about 11 plus or minus three inches in order to deliver it to the 12 farmer. Sometimes we have to maintain it within about an 13 inch, because of very low head conditions, the canal is 14 not very high above the adjacent land. So you have to 15 put boards in and out every day. As you put more water 16 in and taking more water out, you got to evaluate, okay, 17 the water is going to rise two inches. Well, it's on the 18 low side now, so I don't have to put a board in today, 19 tomorrow, and maybe you put in a two-by-four instead of a 20 two-by-six. So there's probably, I think, at least 500 21 of those structures throughout the district.</p> <p>22 MR. ABERCROMBIE: You didn't -- in terms of the 23 gated structures, the one that are -- like, you didn't -- 24 I mean, that one you just kind of quantified for me in 25 terms of 500.</p>	<p style="text-align: right;">Page 12</p> <p>1 water in the canal, this is a five-acre pond that's 10 2 feet deep, has the capacity of about 80 acre feet total. 3 So if there's too much water in the canal, it 4 automatically goes in and it overpours over a big long 5 weir, and then we have pumps that pump. If the water 6 level drops a certain distance, then the pumps will pump 7 the water back into the canal if it's short of water. 8 One of the systems that you have that goes through the 9 middle of one of our ponds.</p> <p>10 This is just a picture of a ditch tender out in 11 the field, it didn't come out too good, but this is a 12 typical turnout structure. It's a concrete structure 13 with a gate that's a 18-inch valve and the ditch tender 14 or the farm irrigator will open that gate, and then the 15 ditch tender every single day, every gate that is open 16 and running water, comes and measures water, either at 17 the gate itself by the gate opening and the head 18 differential across the gate, or we have an actual 19 propeller meter. In about a third of the locations, we 20 have about 580 turnouts, and about a third of those now 21 have propeller meters. I didn't get a picture of a 22 propeller meter, but it's a pretty simple common sense.</p> <p>23 In each canal, every single road crossing that 24 we have where there's a -- you know, it's the inverted 25 siphon going under the road we have to have a trash</p>

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<p>1 screen. This is a new one that was installed, and</p> <p>2 normally during the year early in the season, a whole lot</p> <p>3 of tumbleweeds, especially close to town where there's a</p> <p>4 lot of -- especially now because they had a whole lot of</p> <p>5 stuff with road put in, infrastructure put in, but no</p> <p>6 houses, and tumbleweeds are growing, so they just blow</p> <p>7 all over because there's no houses that have been built</p> <p>8 yet and we have a lot of problems with plugging. You</p> <p>9 have to observe those every day.</p> <p>10 Again, we have 50 miles of pipeline. This is a</p> <p>11 30-inch pipe, and you can see that it has -- usually they</p> <p>12 will have cracks about every 10, 11 feet on the sides,</p> <p>13 and then this one actually has lateral cracks on the</p> <p>14 sides too. Every year we're inside these. One of the</p> <p>15 things that we'll be talking about it is these pipelines</p> <p>16 and where the railroad is going to cross them and the</p> <p>17 vibration and how far do you guys say you're going to</p> <p>18 replace the line, because we're concern, you know, that</p> <p>19 vibrations --</p> <p>20 MR. ABERCROMBIE: Yeah, we would want to replace</p> <p>21 that too.</p> <p>22 UNIDENTIFIED SPEAKER: What's the typical size</p> <p>23 of those?</p> <p>24 MR. WELCH: It ranges from 52 to 18. That's a</p> <p>25 30-inch line right there. A man would actually crawl --</p>	<p>1 notice anything on the FOIA request where you checked</p> <p>2 with the Bureau Reclamation as far as water districts and</p> <p>3 existing facilities; is that true or not?</p> <p>4 MS. DUMOND: This is Melissa Dumond with FRA, I</p> <p>5 don't think I heard your question totally, but we have</p> <p>6 worked with the Bureau of Reclamation In fact, we have</p> <p>7 regular federal family meetings, and we're also</p> <p>8 coordinating with them as a potential cooperating agency</p> <p>9 on the environmental documents at the project level.</p> <p>10 BOARD MEMBER UPTON: You are aware that the</p> <p>11 federal, the state and the local and the farmers have</p> <p>12 spent, in the Central Valley project here, billions of</p> <p>13 dollars to give us the existing infrastructure that</p> <p>14 supports the agriculture industry here in the Central</p> <p>15 Valley allowing us to be one of some of the most water</p> <p>16 efficient and highly productive farmers in the world.</p> <p>17 And is it your view that your project should be</p> <p>18 compatible with our existing infrastructure or not?</p> <p>19 MS. DUMOND: Well, we are assessing the impacts</p> <p>20 to the irrigation project that exists in the Central</p> <p>21 Valley.</p> <p>22 BOARD MEMBER UPTON: Okay. So you haven't done</p> <p>23 it yet, you're still assessing it?</p> <p>24 MS. DUMOND: Well, the environmental document is</p> <p>25 in process. I'm not quite sure whether you're asking me</p>
Page 14	Page 16
<p>1 MR. ABERCROMBIE: Not down the 18s.</p> <p>2 MR. WELCH: No, no, down the 30s.</p> <p>3 MR. ABERCROMBIE: Down the 30s, got you.</p> <p>4 MR. WELCH: And not a man my size, but a smaller</p> <p>5 guy. I used to be able to crawl --</p> <p>6 MR. ABERCROMBIE: Well, Caltrans uses lots of</p> <p>7 cast-in-place pipe, you know, that is -- and that's it,</p> <p>8 you know, 30 and bigger.</p> <p>9 MR. WELCH: And the pipelines that we have are</p> <p>10 what you'd call a semi-closed pipeline, because at the</p> <p>11 grade -- the water level control in the pipeline is</p> <p>12 controlled by boxes like this. About every quarter of a</p> <p>13 mile there's a box, and water actually comes up, goes</p> <p>14 over a weir and then back down.</p> <p>15 MR. ABERCROMBIE: Just like an open canal.</p> <p>16 MR. WELCH: Just like an open canal,</p> <p>17 essentially, because the pipe, you know, by the time you</p> <p>18 got five miles down the pipeline you'd have 27 foot of</p> <p>19 head, and this pipe can't handle that kind of head, and</p> <p>20 so we'll have one of those. And those have to be</p> <p>21 adjusted every single time somebody makes a change in the</p> <p>22 flows. Okay. So damage to facilities --</p> <p>23 BOARD MEMBER UPTON: Can I say something here?</p> <p>24 Question for the FRA, Corey, in your process of</p> <p>25 coordination or "We're reaching out to people," I didn't</p>	<p>1 for a personal opinion or --</p> <p>2 MR. ABERCROMBIE: Well, I think the other -- one</p> <p>3 of the things we -- I mentioned a little bit earlier, but</p> <p>4 in terms of timeline, but most of the district is within</p> <p>5 the Wye section, and since we've put off that decision in</p> <p>6 terms of what we have and what may happen in terms of</p> <p>7 what opportunities are available to improve where they</p> <p>8 are located right now, you know, we've got to kind of go</p> <p>9 back to Square 1 with regards to what facilities may or</p> <p>10 may not be actually hit. I mean, we started with these</p> <p>11 lines, you know, and the fortunate thing, from being able</p> <p>12 to have people like Kole and other people who said, you</p> <p>13 know, you got to go study 152, you got to go improve this</p> <p>14 area, you got to go do these things, we were able to</p> <p>15 construct a mechanism to take the time to do that in the</p> <p>16 detail -- in additional detail and incorporate it into</p> <p>17 that San Jose to Merced document. So I think the outcome</p> <p>18 here is that all of these things that you want to bring</p> <p>19 up and the facilities that you have here, we want to hear</p> <p>20 which ones we're hitting, how -- what we intend to do</p> <p>21 about it, or, you know, where you think it would be best</p> <p>22 moved to, you know, within the realms of what these Wyes</p> <p>23 so that we can minimize any impact, minimize the cost to</p> <p>24 the state for having to replace any of these things or</p> <p>25 rebuild any of these things, you know, in the long run.</p>

<p style="text-align: right;">Page 17</p> <p>1 So -- at least that's the way I see what we've got to 2 take care of here today.</p> <p>3 BOARD MEMBER UPTON: Okay. That was probably 4 true two years ago, a year and a half ago, but I think 5 this board now is in a position of opposition to 6 High-Speed Rail going through our district, because if 7 impacts one, it impacts all of us. In fact, we have a 8 meeting on February 21st to tell our landowners if they 9 want to be assessed \$22 an acre so that we can buy out 10 basically the project so that now we own it.</p> <p>11 MR. ABERCROMBIE: Oh, you mean the Chowchilla 12 infrastructure?</p> <p>13 BOARD MEMBER UPTON: The Chowchilla 14 infrastructure. And we don't want to be false pretenses 15 to our constituents by saying "Okay. We want you to buy 16 this," then find out they bought a pig in a poke, that 17 the rail project is going to run helter-skeiter no matter 18 where it goes and adversely impact our facilities. So 19 that's -- that was my question.</p> <p>20 My second question is: We keep hearing that 21 you're going to start in the Central Valley somewhere, 22 and I've heard Merced, we've heard Chowchilla, we have 23 Madera, but now you're saying our area in the water 24 district has been transferred to the Wye. So where 25 exactly are you going to start in the Merced to San Jose</p>	<p style="text-align: right;">Page 19</p> <p>1 construction section. That has multiple contracts in it, 2 though. They look at four specific contracts that will 3 be building the roadways, you know, building the 4 embankments, the bridges, realigning whatever utilities, 5 facilities that are, you know, impacted it, whether it's 6 in the City of Fresno or out here. You know, in the 7 Madera Irrigation District we'll be impacting some of 8 those. The first contract that we hope to have -- a 9 major contract that we hope to start with that is -- goes 10 from, again, Avenue 17, Madera Acres, towards the Fresno 11 station and includes the Fresno station. Actually, for 12 the purpose of design features, because we don't want to 13 end up with the track not aligning each other, and as we 14 leave Fresno, we have a large curve that needs to be 15 taken into -- I want to make sure that's it's accounted 16 for, should we need it. That that's first contract.</p> <p>17 The second contract goes from there south to 18 about Corcoran. The third goes from Corcoran down to 19 just a little bit north of Shafter. And then the one 20 after, the fourth contract goes from there towards 21 Bakersfield. And the fifth contract is for track. Now, 22 there will likely be other smaller contracts.</p> <p>23 So where we anticipate to start is with a very 24 small contract first in Fresno to do Fresno undercrossing 25 as a design bid build, and that we hope to have out this</p>
<p style="text-align: right;">Page 18</p> <p>1 area?</p> <p>2 MR. ABERCROMBIE: Let's see here if I've got 3 that particular question in this lines here that -- 4 what -- I was here in November and we talked about what 5 the hybrid was. That document in the Merced to Fresno, 6 that that was the preferred selection. That EIR doc we 7 had -- the final EIR doc for that we had anticipated 8 would be out by now. It's going to take another several 9 weeks until we get that completed, and it will come out 10 and we anticipate that will be at the board, instead of 11 March, it will be at the board in May, meaning our 12 High-Speed Rail. That will go to the board and then 13 subsequently FRA for record of decision, notice of 14 determination. Once that is done, then we can start 15 really buying property, entering into negotiations with 16 regards to mitigation of individual property owners. 17 We're precluded from doing that until we have an EIR 18 document. So in that timeline, then we can begin right 19 away, we will be securing contractors to do work. The 20 initial construction section extends from Madera Acres, 21 roughly Avenue 17, and it gets to the point we picked, 22 right?</p> <p>23 MR. WENZEL: Right, yes, correct.</p> <p>24 MR. ABERCROMBIE: And then it goes down all the 25 way towards Bakersfield. That's what we call the initial</p>	<p style="text-align: right;">Page 20</p> <p>1 summer. Again, provided we have the final EIR/EIS for 2 Merced-Fresno, because we have to have that before we 3 build. The major design bid build contract we hope to 4 have signed by the end of the year, and then that work 5 will take place beginning with Section A of Contract 1, 6 which is essentially urban Fresno. Section B of it is 7 from the San Joaquin River towards the north towards 8 Madera Acres, Avenue 17. And the third one, should we 9 choose to do it, Part C, and I'll clarify why we choose 10 to do it, basically it goes from the station through that 11 big curve south. All of that is dependent -- everything 12 south of the Fresno station is dependent on the second 13 document that we have. That second document should be 14 out this spring in draft form, and we hope to have a 15 record of decision and final EIR on that one late in the 16 year.</p> <p>17 Trying to be more specific, where we're going to 18 start construction is Fresno with Part A of Contract 1. 19 And then we have Part B, which would go from the river 20 north to Madera Acres and we would then proceed south. 21 The second contract, once we have a Fresno-Bakersfield 22 EIR, continues south.</p> <p>23 BOARD MEMBER UPTON: That's -- I want to thank 24 you, Jeff, that's a very thorough explanation. That's 25 probably the best explanation I've heard of actually</p>

<p style="text-align: right;">Page 21</p> <p>1 where you're going to start. It helps this board to know 2 what the overall view is when we're trying to look at it 3 as directors of this district. 4 I have a couple more questions, Doug. 5 MR. WELCH: Okay. 6 BOARD MEMBER UPTON: One is to the FRA. It's 7 our understanding that the FRA's demand or request is 8 that the High-Speed Rail project in California must start 9 in the Central Valley in order to receive the \$3.3 10 billion stimulus funds. Is it also a requirement that 11 all 3.3 billion be spent in the Central Valley, or does 12 the High-Speed Rail Authority have the ability to 13 transfer some of those funds to the end points, as long 14 as some of the money is spent in the Central Valley? 15 MS. DUMOND: This is Melissa again. We did 16 that -- we worked with the California High-Speed Rail 17 Authority through our competitive application process, or 18 HSI, our High-speed Intercity Passenger Rail Program, and 19 the Central Valley was the section that was most ready to 20 start, and it did receive the majority of the funding 21 that went to the State of California for the initial 22 construction section. There is additional funding that 23 has been provided to the northern section, and we're 24 looking into opportunities for funding in the southern 25 section as well to address the concern that's been raised</p>	<p style="text-align: right;">Page 23</p> <p>1 looking at the definition right now. 2 MR. ABERCROMBIE: Or looking for it. 3 MS. DUMOND: We want to be able to use the 4 initial construction segment. If there's additional 5 funds for High-Speed that's devoted to the construction, 6 it was -- it's sort of added onto the infrastructure 7 that's going on in the Central Valley in a logical 8 fashion. If there's not or if there's a gap in between 9 funding, then we want to be able to use the 10 infrastructure. And that's the concept of independent 11 utility. 12 BOARD MEMBER UPTON: That's the way I understood 13 it. So this would be used for the current Amtrak system; 14 is that correct? 15 MS. DUMOND: Amtrak is the current -- the San 16 Joaquin is currently run over that section in the Central 17 Valley, and that is a concept that we could pursue, which 18 is the Amtrak -- or the San Joaquin running over the new 19 infrastructure. 20 BOARD MEMBER UPTON: So that would be from 21 Bakersfield to Merced? 22 MS. DUMOND: Yeah, or it could be bigger than 23 that. The idea that the FRA supports is we want to make 24 sure there's network integration and make sure that it 25 benefits the network.</p>
<p style="text-align: right;">Page 22</p> <p>1 about funding in the north and the south in the bookend, 2 so to speak. I will note that we are an inner city 3 passenger rail agency, so we can't fund commuter 4 projects, but we can, and we have tried very hard, to 5 look for mutually beneficial projects that are along the 6 High-Speed Rail alignment that we can fund that we can 7 work on early as investments. 8 BOARD MEMBER UPTON: Is there a minimum 9 threshold for the Valley? In other words, could Jeff 10 say, "Okay. We want to spend a billion dollars in the 11 Valley, but we want to spend \$2.3 billion on the end 12 points," is there a minimum threshold for that or not? 13 MS. DUMOND: I wouldn't say there's a minimum 14 threshold. We have cooperative agreements with the 15 High-Speed Rail Authority, and we've got, I believe, 3.2 16 billion set aside for construction in the Central Valley, 17 so that's what those funds are dedicated to. 18 BOARD MEMBER UPTON: Last question for now. 19 Independent utility, is that still -- could you define 20 that, and is that still in play in the Central Valley? 21 MS. DUMOND: Sure. We issued an interim 22 program guide that gave a definition of independent 23 utility, and I'm not sure that I'm going to get it word 24 for word here, but the concept is that we are able to use 25 the infrastructure and it doesn't set aside those -- I'm</p>	<p style="text-align: right;">Page 24</p> <p>1 BOARD MEMBER UPTON: Okay. 2 MR. ABERCROMBIE: I don't think from the 3 authority's perspective, while we're working with 4 Caltrans who operates the San Joaquins and whatnot, you 5 know, the -- if and when we get there, that agreement 6 hasn't been made, so, I mean, as Melissa pointed out, it 7 is a concept, and that's one way to do it. It could be 8 that we not necessarily, and I do this in terms of 9 clarification, move the San Joaquins from the BNSF onto 10 our system in total or anything, or whether we're talking 11 about additional service that would use this facility. 12 So it's undetermined specifically on how that might look, 13 but the point is it can be done, and that was part of 14 the criteria that the FRA put on. 15 Melissa, can you clarify something for me? Not 16 all of that 3.3 is ERA funds, there's about 300 million I 17 thought was non-ERA; isn't that correct? 18 MS. DUMOND: It's actually -- let's see. It's 19 over 900 million, it's almost a billion that's FY-10 20 appropriations money that's -- it's separate and distinct 21 from the American Recovery Act Fund. 22 MR. ABERCROMBIE: You know, for the people here, 23 I don't get to look at all these contracts and whatnot, 24 but is that tied to the same use in the Valley? And I'm 25 just kind of -- because I know we've talked about, like</p>

<p style="text-align: right;">Page 25</p> <p>1 you said, there are monies that, you know, are a little</p> <p>2 more flexible, and I don't know if those are the monies</p> <p>3 that, and I don't want to make the assumption, and I know</p> <p>4 in newspaper reports sometimes they get it wrong, but is</p> <p>5 that 900 million earmarked like the ERA?</p> <p>6 MS. DUMOND: It's in a cooperative agreement</p> <p>7 with FRA and it is dedicated to the Central Valley.</p> <p>8 There is a small portion that's going toward the</p> <p>9 peninsula area. Yeah, I think -- yeah, that's all of it</p> <p>10 of the FY-10 fund, so it is primarily dedicated to the</p> <p>11 initial construction segment.</p> <p>12 MS. BYFIELD: Mr. Chairman, this is Margaret</p> <p>13 Byfield.</p> <p>14 BOARD CHAIRMAN MADDALENA: Margaret, can you</p> <p>15 speak up?</p> <p>16 THE COURT REPORTER: I can't hear her.</p> <p>17 MR. ABERCROMBIE: You really got to speak up,</p> <p>18 Margaret.</p> <p>19 MS. BYFIELD: Would it be possible if we could</p> <p>20 get a copy of the interim program guide policy that the</p> <p>21 FRA just spoke of on independent utility that the FRA</p> <p>22 just spoke of, their definition?</p> <p>23 MS. DUMOND: Sure. Absolutely. Who should I</p> <p>24 send that to? Doug?</p> <p>25 BOARD MEMBER UPTON: Yeah, send it to Doug here</p>	<p style="text-align: right;">Page 27</p> <p>1 asked about access to our facilities, he says, "Oh, we'll</p> <p>2 make you an overpass or an underpass." And reference was</p> <p>3 made, you know, like on Highway 80 you're on your way to</p> <p>4 Reno, and there's undercrossings underneath the freeway,</p> <p>5 this is like every five miles. Chowchilla is only 12</p> <p>6 miles by 14 miles. Also, was at meetings where I met</p> <p>7 with them and they were talking to farmers and told</p> <p>8 farmers, "Yeah, we'll give you access from one side to</p> <p>9 the other, we'll make an overpass." I told them "If you</p> <p>10 believe that, there's some swamp land in Florida I'll buy</p> <p>11 and I'll sell it to you, because they're not going to do</p> <p>12 that." I mean, it's absurd. In fact, in your draft EIR</p> <p>13 you talk about the closure of roads and you say that it's</p> <p>14 insignificant, the impact on farming. I suppose you'd</p> <p>15 also considered that to be insignificant to the</p> <p>16 Chowchilla Water District, because you had said you were</p> <p>17 going to provide facilities from one side to the other</p> <p>18 and, in fact, you don't.</p> <p>19 Anyway, to the actual facilities. There's</p> <p>20 references in Section 3.6 to canals, moving canals.</p> <p>21 There's references to -- you know, this is the section on</p> <p>22 utilities, providing a steel carrier pipe for -- you</p> <p>23 know, to get conduits from one side to the other. It</p> <p>24 really doesn't address canals themselves. I had meetings</p> <p>25 with, you know, AECOM consultants, and they said, you</p>
<p style="text-align: right;">Page 26</p> <p>1 at the water district.</p> <p>2 MS. DUMOND: Okay. Absolutely.</p> <p>3 MR. WELCH: On damage to facilities, I'd like to</p> <p>4 point out that at the beginning of the California</p> <p>5 High-Speed Rail outreach, for some reason they reached</p> <p>6 out to cities, counties, everybody but irrigation and</p> <p>7 water districts, because if you look at all the different</p> <p>8 meetings that they had, they had multiple meetings with</p> <p>9 all kinds of government organizations, there were no</p> <p>10 meetings with water districts or irrigation districts.</p> <p>11 Why, I have no clue, other than it didn't seem that they</p> <p>12 knew that those facilities existed. In fact, when</p> <p>13 talking to some of the subcontractors or contractors that</p> <p>14 High-Speed Rail had hired they said, "Well, aren't those"</p> <p>15 -- "the city is responsible for those." I said, "No, the</p> <p>16 city" -- you know, they're thinking the City of</p> <p>17 Chowchilla has pipes that goes to the houses and then to</p> <p>18 the rest of the farming community. I said, "No, they're</p> <p>19 absolutely separate." All the way down the San Joaquin</p> <p>20 Valley you're going to find farming districts that have</p> <p>21 irrigation canals and pipelines.</p> <p>22 Anyway, we had some good meetings with Cort from</p> <p>23 the -- with consultants, also some discussions that I</p> <p>24 just didn't believe, that the statements that they made</p> <p>25 were made with a wink and a nod. For instance, when I</p>	<p style="text-align: right;">Page 28</p> <p>1 know, we're going to build a bridge. It doesn't say that</p> <p>2 in the draft EIR. They said we're going to build a</p> <p>3 bridge over a canal, because I told them there's a lot of</p> <p>4 places where a box culvert would not work, because</p> <p>5 there's no head to be -- unless you want to replace the</p> <p>6 canal for five miles that's just pretty much dead flat,</p> <p>7 you're going to have to put a bridge, because we can't</p> <p>8 afford any head loss through a box culvert. I don't see</p> <p>9 that in the draft EIR at all as far as how you're going</p> <p>10 to take your facilities from one side of our canal to</p> <p>11 another. What's the plan?</p> <p>12 MR. ABERCROMBIE: Well, I'm a little confused,</p> <p>13 because you make reference --</p> <p>14 MR. WELCH: You have references in the draft EIR</p> <p>15 to a steel carrier pipe that's not a canal.</p> <p>16 MR. ABERCROMBIE: I got you. Now, you started</p> <p>17 with that, you know, that there were no meetings, but</p> <p>18 then you talked about meetings that you had, so I'm</p> <p>19 trying to get a little verification of that --</p> <p>20 MR. WELCH: Right, there were no -- we went to</p> <p>21 meetings, open house meetings, started talking to them,</p> <p>22 "Hey, you guys haven't came and talked to us, what's</p> <p>23 going on?" And all of a sudden it's, "Oh, geez, you mean</p> <p>24 there are canals and" --</p> <p>25 MR. ABERCROMBIE: Then I'll beg to differ in the</p>

<p style="text-align: right;">Page 29</p> <p>1 sense that we have a couple of documented meetings with 2 you and --</p> <p>3 MR. WELCH: After that you met with us.</p> <p>4 MR. ABERCROMBIE: Dating back September 24th, 5 2009, you met with an AECOM representative.</p> <p>6 MR. WELCH: Yes.</p> <p>7 MR. ABERCROMBIE: You know, so not having it in 8 terms of time frame when you said open forum or not open 9 forum, and in those he gave -- his -- what I understand 10 he talked -- had probably a fairly extensive conversation 11 about you -- I think bridges were one of the things 12 mentioned, besides having many of these things lined and 13 so on. So, you know, I want to clear up that we 14 didn't -- the statement that we did not meet with you, I 15 think we have.</p> <p>16 MR. WELCH: No, initially you didn't meet with 17 us. You had all these other meetings, and we went to 18 some of your open forum meetings.</p> <p>19 MR. ABERCROMBIE: I understand an open forum 20 meeting has a value, and that's totally different than 21 sitting one on one and talking, I totally get that.</p> <p>22 BOARD MEMBER UPTON: Let me support what Doug is 23 saying here, because I got involved in this, because we 24 went to a meeting and all of a sudden I find out all 25 these things are happening. I went to the Merced</p>	<p style="text-align: right;">Page 31</p> <p>1 to listen, to have input. I'll be damned if I can tell 2 where you people have listened in some cases. I mean, 3 you know, it's two years we've spent talking and working 4 and yet -- and that's why this board is in a position now 5 the same as Madera County. We've had it, you know, you 6 guys want to go somewhere else, hey, great, go somewhere 7 else. But if you're not going to listen to us and you're 8 going to impact your constituents, we don't have any 9 choice, we have an obligation to them, we're going to 10 have to fight this thing. So let's not revise history by 11 saying, well, yeah, we met with you.</p> <p>12 MR. ABERCROMBIE: I would love to stick with 13 what we've got to do here forward than, yeah, talk about 14 the past, because --</p> <p>15 BOARD MEMBER UPTON: Well, the past is 16 important.</p> <p>17 MR. ABERCROMBIE: Well, no. Essentially, from 18 this point forward, I think the past is irrelevant, 19 because we have the opportunity to make sure that what 20 you're concerned about is clearly addressed. We have a 21 document that has -- that this gets to be put into in 22 terms of -- that is responsible for the impacts it's 23 going to be in San Jose to Merced to make sure that what 24 wasn't done, in your eyes, is done now. And so, like I 25 said, and I mentioned it a little earlier, the idea that</p>
<p style="text-align: right;">Page 30</p> <p>1 meeting. I went to the Madera meeting. They had an 2 engineer at that time, I believe his name was Ken Islack. 3 What was your predecessor's name, Dick?</p> <p>4 MR. WENZEL: Sislack.</p> <p>5 BOARD MEMBER UPTON: Sislack, who promptly in 6 Madera chewed my butt out for even bringing up things. 7 Well, eventually he ended up getting fired, because he 8 also gave grief to the chairman of the authority. It's 9 one thing to give grief to a nobody farmer, but when you 10 give it to the authority chairman you probably got a 11 short life span with the authority, which he did. And 12 you can check with Carey Bowen, your predecessor, that, 13 in fact, they did not have any outreach to water 14 districts, resource conservation districts. They did not 15 understand the rural environment that we have here. Now, 16 the City of Chowchilla, for reasons that are a mystery to 17 me, they have been put up on a pedestal ever since this 18 thing happened, and their view counts more than anybody 19 else, and why that it is, I don't know, but it is what it 20 is. So what you need to know is the city is actually 21 part of the water district. We're responsible, they vote 22 in our elections. Anyway, what Doug is saying, though, 23 is that there was no outreach. And then, you know, I 24 don't want to insult you, but then to have the audacity 25 to say we did meet with you. Well, purpose of meeting is</p>	<p style="text-align: right;">Page 32</p> <p>1 you wanted us to talk one on one, we're here to do that, 2 and we're here to make sure that, you know, the weirs, 3 the grates, the culverts, the pipes, you know, whether 4 it's RCP or, you know -- reinforced concrete, which is 5 what we'd want to, you know, replace anything that 6 happened to be underneath us, for your protection, our 7 protection, everybody's. You know, that's a win-win.</p> <p>8 BOARD MEMBER UPTON: So you're saying there is a 9 new approach?</p> <p>10 MR. ABERCROMBIE: Certainly, and if you've --</p> <p>11 BOARD MEMBER UPTON: It's not just me saying 12 this, because you can quote in the Fresno Bee your 13 chairman, Dan Richard, "All three of us are dealing with 14 a history here that has not been good." Okay? "A 15 challenge made greater by Richard called the authority's 16 'ham-handed' discussions with worried landlords." That's 17 not me saying that, that's your boss.</p> <p>18 MR. ABERCROMBIE: I agree. In fact, I wanted to 19 bring that up, because that is what the theme is. And I 20 went around with Dan Richard last week a little bit. I 21 was with him earlier this week, you know, to hear what 22 he's charging the authority with in terms of, you know, 23 being out here and doing these things. So, yeah, I mean, 24 when LaHood was out here, he made a similar type of 25 statement, is we're here to get a project done,</p>

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1 obviously, but you have to go mitigate -- you know,
 2 whether it's a business owner or a farmer, you've got to
 3 go make things whole, you got to do it right.
 4 BOARD MEMBER UPTON: Okay. That's great,
 5 because he says "I'm extremely unhappy with the kind of
 6 approaches that have been made to farmers and business
 7 people along the potential alignments. Those have not
 8 been right or fair or just." So, know, if we have a
 9 change in attitude, and it reflects a change in approach
 10 and we get some takeaways, that's fine. If this is just
 11 putting lipstick on a pig, that don't work for us.
 12 MR. ABERCROMBIE: I've worked with you for a
 13 year, Kole, am I trying to put lipstick on a pig?
 14 BOARD MEMBER UPTON: I don't know.
 15 MR. ABERCROMBIE: Okay.
 16 BOARD MEMBER UPTON: Time will tell.
 17 MS. BYFIELD: Mr. Chairman, may I ask a
 18 question?
 19 BOARD CHAIRMAN MADDALENA: Go ahead.
 20 MS. BYFIELD: This is Margaret Byfield. I
 21 completely agree with, you know, part of what needs to
 22 happen is this is a good opportunity to move forward, but
 23 I think the point that Kole is trying to make is that
 24 because the water issue and the ruling have not been
 25 taken into account in the detail that they should have

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1 been taken into account early in the process that is
 2 required by NEPA, it changes every decision, it changes
 3 every alternative, because you can't sit back and say you
 4 did a real sufficient environmental impact statement if
 5 these very significant issues, which could influence
 6 actually where you even put the Wye, whether it be in the
 7 Chowchilla area or even other places in other cities.
 8 But because their issues weren't taken into account early
 9 on in the process, those never -- their concerns were
 10 never taken into account in a way that could really allow
 11 you to do redirect alternative comparison (inaudible) --
 12 THE COURT REPORTER: I'm sorry, I can't hear
 13 with the rustling.
 14 BOARD CHAIRMAN MADDALENA: Margaret.
 15 MS. BYFIELD: (Inaudible) taken into account
 16 early in the process. So while I think there are
 17 opportunities to move forward, I think it's real
 18 important for the authority and for the FRA to understand
 19 that that's part of the reason why the document is
 20 insufficient.
 21 MR. WELCH: Okay. We'll -- moving on here. You
 22 met with AECOM, Ken Swanson, in fact, and I've known Ken
 23 a long time and he's been at other engineering firms, and
 24 I asked "How are you going to cross a canal?" He said,
 25 "Well, we can either put a siphon in, an inverted siphon,

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1 box culvert or a bridge." And he's pretty familiar with
 2 our system and the fact that there's not a lot of change
 3 in grade in some places, and so it's necessary to put in
 4 bridge. There's nowhere in the draft EIR that you
 5 anything about you're going to put in a bridge over a
 6 canal. In fact, you referred to -- it's in the utilities
 7 section, when you're talking about, you know, you'd put
 8 in a steel pipe to get the utility from one side to the
 9 other.
 10 MR. ABERCROMBIE: Uh-huh.
 11 MR. WELCH: The thing that causes me great
 12 concern is that I asked questions also about access from
 13 one side to the other, and he said, "Definitely we'll be
 14 putting in some type of a crossing for you to get from
 15 one side of the rail to the other." And I looked Ken in
 16 the eye and I said, "Ken, I don't believe it." He said,
 17 "Well, that's what they've told us we're going to do."
 18 That's also not in the draft EIR. So what is it that
 19 you're planning to go as far as crossing one of our
 20 canals to allow our water to get from one side of the
 21 rail to the other?
 22 MR. ABERCROMBIE: Bring it back and forth a
 23 little bit. You know, I think really it's going to --
 24 whatever my answer is here it really is going to boil
 25 down to two things. One is what it takes to keep your

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1 water flowing. And one of the things that Ken noted and
 2 we -- what he didn't finish with you, and I have no idea
 3 why, was a spreadsheet that was supposed to talk about
 4 capacities, cue flows or whatnot, and I'm not a water
 5 guy, so please forgive me if I'm using the wrong units or
 6 whatnot. But, I mean, that's generally what's going to
 7 dictate some of that. And you mentioned very well there
 8 are other -- that if you can't tolerate the head, then
 9 you have to provide the appropriate engineering solution
 10 and if that's so -- and if the appropriate engineering --
 11 obviously, we're going to want to do what is the least
 12 expensive, but if the least expensive doesn't work, you
 13 have to move up to something else. So you would do it
 14 with a pipe if it's a small facility and it meets the
 15 demand that you guys need. Could be -- and it would be
 16 reinforced concrete. If it's a bigger flow that you
 17 need, your bigger canals, we would naturally want to go
 18 to a box culvert. But in the situation that those don't
 19 work, you know, we would probably -- again, whatever that
 20 solution might be, because, you know, I would imagine
 21 you're sensitive as well to what that bridge would look
 22 like in terms of what goes in the canal, you know, into
 23 the cross-section of the canal and the span and whatnot.
 24 So we would have to look to see where that is, as well as
 25 there certainly might be opportunities that that would be

<p style="text-align: right;">Page 37</p> <p>1 looked at from an engineering perspective of shifting it. 2 If it's straight across perpendicular, obviously, you 3 know, that's totally different in aerial, but -- excuse 4 me, when it's perpendicular shifting it doesn't 5 necessarily make a difference. So any one of them, and 6 you've got a number of different facilities, so there is 7 no one solution that I can tell you right here right now 8 what it would be. In terms of crossings, you know, the 9 authority has taken the stance that we're providing a lot 10 of road crossings, and everything in between is part of 11 the negotiation from kind of the right of way standpoint 12 of it, especially if this was with regards to a farmer, 13 it's a compensation issue. Do we pay him the 14 inefficiencies for driving around, or do we spend the 15 money to build him a culvert underneath that he can cross 16 the rail on or an overhead. Do we build one overhead and 17 an easement so that three or four farmers can use it 18 versus one farm and we build two. All of those are 19 looked at, really, from the idea on the right of way 20 point of it, because it's a compensation issue. And to 21 some extent, you know, that is not where we're at, you 22 know, with the water districts as well. That's a 23 negotiation that's done, you know, not unlike Caltrans, 24 and based on my Caltrans past, I was looking up here at 25 the -- I printed it out and I was looking at it, but</p>	<p style="text-align: right;">Page 39</p> <p>1 applicable, because it's now being studied in the San 2 Jose to Merced and we have an opportunity to move those 3 lines. And that's what I've been trying to work with the 4 City of Madera, the Madera Farm Bureau and a few other 5 people to get that off the ground, because what I would 6 like to see happen between now and, essentially, June is 7 spend these two or three months trying to refine those, 8 trying to determine what other alternatives ought to go 9 into the San Jose to Merced document so that they're 10 properly and thoroughly studied and then -- you know, 11 that's what I see this meeting as an opportunity for. 12 I'll just throw one out. You know, I know -- you know, 13 in trying to make the existing alignments more palatable, 14 and I know you mentioned the City of Chowchilla carries a 15 lot of weight, our CEO and our board members have met 16 with them a couple of times recently, but they were both 17 very clear to the City of Chowchilla is, you know, "I 18 know you may not like some of these, but in the process 19 of evaluating them, because we're bound by the laws that 20 require it, we're not just going to pull it off, you have 21 to look at those." And he urged them to put in the 22 constructive input to make whichever ones, even if they 23 don't necessarily like them a lot, how to make them 24 better and that much more -- well, as Kopshever says, 25 making lemonade out of lemons, and he said it actually</p>
<p style="text-align: right;">Page 38</p> <p>1 Caltrans has a standard agreement, and we've just 2 recently got our -- the authority's group underway that 3 will be working to write these agreements, agreement with 4 you in terms of the water district, in terms of, you 5 know, PG&E, in terms of the City of Fresno and all of 6 them about how the plan checks are going to be done and 7 how that's paid for, or if there's redesign costs how 8 that's going to be paid for, as well as the construction 9 cost. And then the freeway agreement up here for the 10 Plainsburg work that Caltrans is doing. You know, they 11 have canals that they're moving around. They have -- you 12 know, an MOU or agreement contract to pay for engineering 13 design and they have a contract to pay for the work any 14 of the other physical infrastructure has to be moved. We 15 are bound by the same types of, you know, California laws 16 that we have to be doing the same thing. 17 So it's really now the process of getting to the 18 details, and one of things I opened up with was in the 19 situation that we are here, the idea that we've taken any 20 of the impacts that are in the Wyes and have the 21 opportunity to, not just look at the impacts from the 22 standpoint what we have to do about them, but change the 23 impacts by moving the lines north, south, east, west X 24 amount, you know, the whole discussion, you know, what's 25 in the Merced to Fresno document may or may not be</p>	<p style="text-align: right;">Page 40</p> <p>1 more daggerish than I did, but the idea is what can we do 2 to improve it. West Chowchilla design option, right now 3 it's not on a county road. Would it make a difference if 4 it was moved from where it's at now to Road 13? 5 BOARD MEMBER TAYLOR: Didn't Chowchilla take the 6 position they didn't want it in their city limits? 7 MR. ABERCROMBIE: They still have that position. 8 I mean, but what we told them, we were very clear, it was 9 very clear and the board members were very clear is "You 10 may not like it, but work with us to make it so that when 11 we're done, if that is the one selected, that you have 12 things in there so that you have benefit of it as well." 13 I mean, that it isn't all bad, all impact and the goal is 14 to, you know -- if -- you know, taking the through 15 Chowchilla one, they talk about the city being divided, 16 and I can appreciate it and in some ways, you know, I 17 have a hard time understanding it, because the city is 18 already divided by UPR. Personally, I see a benefit 19 there if we could be along UPR you could have 20 overcrossings there. I mean, overcrossings are an 21 impact, too, but you would no longer have traffic waiting 22 at Robertson and 24th, for example, where those present 23 gray crossings are, and it's a safety thing too. But 24 what other things might even be available, you know, in 25 terms of how it's done and, you know, they have the big</p>

<p style="text-align: right;">Page 41</p> <p>1 plans to develop between Chowchilla Boulevard and the 2 freeway. Well, if we happen -- if the alignment we could 3 make work was along Chowchilla Boulevard, you know, that 4 new development needs that new road. So if you move that 5 over, would that be a benefit? But those are the things 6 that you want to discuss to find out what works and what 7 doesn't work. And if they as Chowchilla, the City of 8 Chowchilla, can say "Well, these things would make it 9 better. We don't like it and we're going to fight 10 against it." Great, I understand that, that's part of 11 the process, but then you're able to at least find 12 something that they can benefit from in the process, as 13 well as everything else that they don't like.</p> <p>14 BOARD MEMBER UPTON: We understand that they 15 want 21, is what they want. And the thing that always 16 baffles me, I guess, is that a lot of these are not even 17 within their jurisdiction. I mean, the mayor proposed a 18 maintenance facility next to my place in a different 19 county, for goodness sakes, and the High-Speed Rail 20 accepts that. So you begin to wonder, you know, what's 21 going on.</p> <p>22 Let me ask a question of you and the FRA. 23 You're talking about what routes would we be satisfied. 24 Now, the chairman was talking to the L.A. Times and he 25 mentioned that he would consider, I don't know if this is</p>	<p style="text-align: right;">Page 43</p> <p>1 don't know what the chairman's intent was, whether he was 2 referring to this document in the sense that's what 3 they're going back and relooking at. With regards to, 4 you know, do any of these impacts we're now studying 5 change the position, you know, we'll know in April or so 6 when it goes back to the authority.</p> <p>7 BOARD MEMBER UPTON: But I guess what I'm 8 getting at, between you and the FRA, Altamont Pass is not 9 in the same category as I-5, because anytime you mention 10 I-5, they you say "No, you got to read the Ten 11 Commandments closer and I-5, you can't do that one." But 12 Altamont Pass is not that position, it is possible 13 that -- because that kind of thing where you take it 14 totally out of our area, as far as the east-west 15 connection, might be attractive to this board, just a 16 guess.</p> <p>17 MR. ABERCROMBIE: Just a guess.</p> <p>18 BOARD MEMBER TAYLOR: The city took the 19 position, I believe, that they didn't want it in their 20 city limits. And that's basically what we're doing, we 21 don't want it in the water district limits. And to put 22 it -- to ask us to put it over here or over here, we 23 represent all the farmers in the whole water district. 24 So to say that Route 1 is better than Route 2 or Route 3 25 or Route 4, then that's pushing it on one farmer and not</p>
<p style="text-align: right;">Page 42</p> <p>1 true, would consider Altamont Pass as the east-west 2 connection, rather than 152, which connects in urban 3 areas, instead of going through a hundred miles of 4 farmland. Now, is Altamont Pass off the table, or is 5 that something that could be considered?</p> <p>6 MR. ABERCROMBIE: The Altamont-Pacheco document 7 was done in 2008, Atherton and a few of the peninsula 8 cities sued, and it was redone in 2010 and they sued 9 again, though they won on only about two or three 10 relatively minor things from the idea of impact, you 11 know, that you did -- the authority, for example, did not 12 consider that when you do the High-Speed Rail in the 13 corridor up there, that if we move the freight trains to 14 the outside, rather than put a High-Speed Rail on the 15 outside, then the freight trains are 15-foot closer to 16 the houses, and that, as an example, I think was one of 17 them. So that's what we're going back and clarifying in 18 the document. So that document is open and it is open 19 until next week sometime for public comment. It's been 20 there. So that decision is presently open, presently 21 will be reevaluated that document. I think the authority 22 feels pretty good that, you know, that the first decision 23 was sound, but with public comment and with whatever the 24 conclusion of that lawsuit and what we're doing here in 25 terms of the revised EIR, we'll see what that is. I</p>	<p style="text-align: right;">Page 44</p> <p>1 the other farmer. So we represent all the farmers 2 equally, so to choose one route over another one is 3 you're asking us to throw some of the farmers under the 4 bus, and that's really not acceptable.</p> <p>5 MR. ABERCROMBIE: I'm not sure I asked you to 6 choose one route or another.</p> <p>7 BOARD MEMBER TAYLOR: I thought that's what you 8 just said.</p> <p>9 MR. ABERCROMBIE: Well, I didn't mean to 10 communicate it that way if that's what you heard.</p> <p>11 BOARD MEMBER TAYLOR: If we'd prefer one route 12 over another.</p> <p>13 MR. ABERCROMBIE: Well, ideally, yes. But I 14 think what I asked was is are there places -- well, the 15 example I gave was is right now the west Chowchilla 16 design line is at 13 3/4 or something, would it make a 17 difference to the impacts in terms of the Chowchilla 18 Water District if it was at Road 13 --</p> <p>19 BOARD MEMBER TAYLOR: No.</p> <p>20 MR. ABERCROMBIE: -- on the east side or the west 21 side.</p> <p>22 BOARD MEMBER TAYLOR: No, it would still be on 23 one farmer or the other farmer, so you're asking us to 24 throw one farmer under the bus.</p> <p>25 MR. ABERCROMBIE: I'm not asking about the</p>

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1 farmer, I'm asking about the district and the
 2 infrastructure that the district has, because that's what
 3 we're here to talk about.

4 MS. DUMOND: I just wanted to note that the
 5 concerns that the Atherton community brought up, the
 6 litigation that Jeff referenced, was on the CEQA side.
 7 On the NEPA side, the record of decision for Pacheco or
 8 Altamont was issued, although it's not in the same boat
 9 as the CEQA decision, and we do stand by the Tier 1
 10 decision.

11 BOARD MEMBER UPTON: So you would not be
 12 interested in looking at Altamont Pass?

13 MS. DUMOND: We went through a legitimate
 14 process to make the decision of Pacheco Pass, so there
 15 would obviously have to be extenuating circumstances to
 16 relook at any third decision like that.

17 BOARD MEMBER UPTON: Well, I would question the
 18 word legitimate on that. But, nonetheless, I think we
 19 ought to be looking at what is the best for the people of
 20 the State of California and the most efficient
 21 transportation mode and how it could be effectively
 22 integrated with our existing infrastructure and not come
 23 through here and destroying something that's taken
 24 decades to develop in order to have a new project that
 25 may or may not be viable.

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1 MS. DUMOND: We would agree with you. We want
 2 this to be a good process and one that includes your
 3 input and is very sensitive to the needs of the water
 4 district and the infrastructure that you've developed
 5 thus far.

6 BOARD MEMBER UPTON: Okay. We appreciate that,
 7 and I appreciate that attitude, because the approach a
 8 lot of us have felt is that we've got a death sentence
 9 and our only choice is we get poison or the guillotine.
 10 So if we could back that up and maybe get a pardon and
 11 start discussing things overall, and maybe with a new
 12 chairman, maybe we can do that. And I assume the FRA,
 13 then, it sounds like, would be willing to entertain new
 14 ideas if the chairman and the authority came forth with
 15 such.

16 MS. DUMOND: We definitely want to talk to you
 17 about your concerns and any sort of idea that you bring
 18 up, we're very open to that. I want to note, too, that
 19 the Secretary of Transportation, Ray LaHood, was in town
 20 last week and he made a point to meet with some of the
 21 agriculture constituents. He came back and he had a lot
 22 to say about what he heard from folks. He was very
 23 receptive and he wanted to make sure that we were
 24 building the system in a context-sensitive manner, and
 25 certainly listening to the concerns of the agricultural

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1 community and folks like yourself, the water districts,
 2 and other folks.

3 BOARD MEMBER UPTON: I would be interested to
 4 know who he met with, because I haven't talked to one
 5 farmer involved in this that met with him.

6 MS. DUMOND: Well, I can't say I have a list of
 7 participants, but I could try to get back to you on that,
 8 on the folks that he did meet with.

9 BOARD MEMBER MANDALA: We haven't gotten an
 10 answer on the road crossings, transportation across --

11 MR. WELCH: Well, that's another item on the
 12 agenda, I'd like to -- so we've talked about canals and
 13 whatever engineering --

14 MR. ABERCROMBIE: Yeah.

15 MR. WELCH: -- solution there is that's
 16 acceptable, it may not necessarily be the least cost,
 17 because if it doesn't get Chowchilla Water District what
 18 they need, they may have to go to a -- for instance, if
 19 you're going to put in -- you know, you say "Well, this
 20 is a small canal, we'd like to not build a bridge, we'd
 21 like to" -- because we're not going to be in the aerial
 22 here, put in a box culvert," and if it takes concrete
 23 lining, you know, back to a check structure and raising
 24 the canal in that section, it's ten cents on the dollar
 25 for what it would cost to build a bridge.

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1 MR. ABERCROMBIE: Right. And I think
 2 fiduciarily it would be appropriate to say "Well, if it
 3 costs \$2 million to do the bridge and 500,000 to line the
 4 canal" and do what you just said, which was Greek to me,
 5 but do what you just said, then that's the proper thing
 6 to do, provided it allows you to continue to do your
 7 service that you -- you know, that you need to do. You
 8 know, and I'll toss something out where you're concerned
 9 about crossing the facility in terms of needing for
 10 tender stuff. You know, a possible solution would be
 11 some of those semi-automatic gates that you talked about
 12 where you cut down the need to be in that area to some
 13 extent. Those types of alternatives I think should be
 14 discussed as well.

15 MR. WELCH: Unfortunately, there's a lot of
 16 debris in the canals.

17 MR. ABERCROMBIE: I'm not saying it eliminates
 18 it.

19 MR. WELCH: You have to still go and check those
 20 out to make sure that they haven't caught debris in them.

21 MR. ABERCROMBIE: I totally understand. I don't
 22 mean it eliminates it, it would potentially reduce the
 23 frequency. But those are the things -- that's a new
 24 piece for me, and that's tremendously innovative, you
 25 know, for you guys to -- I mean, whenever you can do

<p style="text-align: right;">Page 49</p> <p>1 that, you've just saved your constituents, you know, some 2 extra money, because, you know, it's less overhead that 3 you had to put into, you know, doing the things that you 4 do as a water district. One of the things that would 5 help us, and Sam is our lead engineer for this, I don't 6 know if you do the water, as well, but, you know, he 7 would be the gentleman that would lead some of this, or 8 David would, is the flows, you know, and making sure that 9 we've got an updated -- well, I don't know if you've 10 added to your system, but updated from the stuff that you 11 and Ken Swanson had kind of worked on back a number of 12 years ago. And then we can look at those flows and we 13 can understand which ones start to fall in the pipe 14 category, versus what falls in a box culvert and what 15 would have to be moved to something better than that 16 or -- you know, from that standpoint. I think that would 17 be a tremendous bit of information to update and share.</p> <p>18 MR. WELCH: Can we talk about pipelines? 19 MR. ABERCROMBIE: Sure. 20 MR. WELCH: I told you the type of pipelines we 21 have. Has the authority or do you have access to any 22 studies that have been done as far as vibration of the 23 High-Speed Rail and its impact on the monolithic cracked 24 in-place pipe? 25 MR. ABERCROMBIE: You know, I'd have to ask the</p>	<p style="text-align: right;">Page 51</p> <p>1 MR. WELCH: -- the RCP, it's different behavior 2 than the poured in place cracked pipe. 3 MR. ABERCROMBIE: Do we have, in terms of 4 studies, you know -- I mean, because this is a new 5 science, Dave, whether you can comment on it, or Dick, 6 you know, in terms of the document -- the guidance that 7 the authority has produced for you in terms of the design 8 team on how they've looked at that? Can you comment on 9 that for me, because I don't know the details on the 10 guideline that are there. 11 MR. LEVERENE: For San Jose to Merced, I really 12 can't comment on that specifically. It's one of a large 13 number of things that we should have looked at, I don't 14 personally know whether we have or not. 15 MR. WENZEL: I have to dig into it myself. 16 MR. ABERCROMBIE: But, you know, what we 17 discussed is is there are right ways and wrong ways to do 18 things, and like you said, you wouldn't want to -- you 19 recognize that you just don't chop it in the middle and 20 do it, you've got to take it back to a logical spot and 21 make the proper connections. 22 MR. LEVERENE: Can I add something, Jeff? It's 23 fairly straightforward to analyze the affect of the 24 vibration from the train. You can measure it on existing 25 high-speed lines where the soil conditions are somewhat</p>
<p style="text-align: right;">Page 50</p> <p>1 RC's on it. You know, from my Caltrans perspective, 2 Caltrans mostly uses reinforced concrete, you know, in 3 the right of way and whatnot. The vibration for the 4 rail, you know, there is the technical study reports and, 5 you know, we look at it as not affecting things within 6 about a hundred feet, so that might be the threshold that 7 we -- you know, I'll ask you, Dick, in a moment, you 8 know, even that would mean that we would perhaps have to 9 replace that pipe past our right of way, you know, past 10 so that you're out that hundred, hundred and something 11 feet so you wouldn't be affected. And sometimes you 12 don't want to put a joint in the pipe there. You may 13 want to take it back to the next control box. I mean, 14 there's smart ways to do things, then there's a stupid 15 way to do things. You don't marry up and RCP and a cast 16 in place and have a joint that you're going to be screwed 17 with forever. So that wouldn't necessarily always be the 18 appropriate cut-off point, you've got to look at that 19 from a standpoint --</p> <p>20 MR. WELCH: We absolutely know, because we have 21 done a lot of replacement with RCP, and if we don't do it 22 at a box, it's going to leak, either right at the 23 connection or just immediately upstream of it because of 24 expansion and contraction --</p> <p>25 MR. ABERCROMBIE: They behave differently.</p>	<p style="text-align: right;">Page 52</p> <p>1 similar, and I assume there is such a location in the 2 world. You can also predict it with a knowledge of soil 3 mechanics and vibration technologies. I mean, it can be 4 predicted and then it can be validated as to whether 5 those predictions are correct. So understanding what the 6 affect of the vibration is technically not that 7 difficult, and can and should be brought into the 8 evaluation of how to mitigate the affect on things like 9 sewers. And not just sewers, if you run it by other 10 sensitive receptors that are sensitive to vibration it's 11 the same thing. 12 MR. ABERCROMBIE: Do you have -- what do you 13 do -- 14 MR. WELCH: We don't have any sewer lines. 15 MR. ABERCROMBIE: I hope they don't mix. 16 I mean, we've got a freight rail out here right 17 now that runs within your district. How does your system 18 interact with that, or do you have any pipes under it? 19 MR. WELCH: It's reinforced concert pipe. 20 MR. ABERCROMBIE: And how far out to you go out 21 from this railroad? 22 MR. WELCH: It's going to be canal on the -- so 23 it's canal, reinforced concrete pipe underneath the 24 Chowchilla Boulevard, under the railroad, and then back 25 out in the canal on the other side.</p>

<p style="text-align: right;">Page 53</p> <p>1 MR. ABERCROMBIE: So you don't have any that 2 come out as cast in place offhand and then goes to RCP 3 and then back again? 4 MR. WELCH: We have cast in place, and then it 5 goes into reinforced concrete pipe, and then -- under 6 Highway 152, and then comes out into the other side. And 7 it routinely -- well, Ron, your place right there on 152, 8 it routinely breaks at -- you know, from the vibration of 9 the freeway. 10 MR. ABERCROMBIE: I mean, That would be a good 11 example to go back and look at and say on an engineering 12 basis what would we want to do from that similar 13 situation for ours, I mean, because we won't be much 14 different than the freeway. 15 MR. WELCH: This is outside of the right of way, 16 but for about, I don't know, 150 feet outside of the 17 right of way it keeps breaking on Road -- what is that, 18 15? 15 1/2? I mean, for about 150 feet it just keeps -- 19 no matter what you do, until we replace it with RCP it's 20 going to keep cracking. 21 MR. ABERCROMBIE: I don't know if that was a 22 construction flaw to begin with or whether that's part -- 23 obviously, the vibration aggravates it. Anyway, we would 24 be looking at those type of situations, and you have, I 25 think probably over the course of your district's life</p>	<p style="text-align: right;">Page 55</p> <p>1 prudent. 2 MR. WELCH: Let's move on to onto regulating 3 ponds, one of the -- the Avenue 21 goes right through one 4 of our regulating ponds. I hope that you guys are going 5 to relocate it and relocate the pond immediately adjacent 6 to that area and make it work properly. 7 MR. ABERCROMBIE: No, I wanted the big map here. 8 For those on the phone, we're pointing to the map, please 9 pay attention. By the way, I got the City of Chowchilla 10 to say they could live with 152. They may not admit to 11 it, but they said it in front of me. 12 (Off the record.) 13 MR. WELCH: It's right where it crosses Road 9. 14 MR. ABERCROMBIE: And perhaps -- 15 MR. WELCH: You can't see it, because it's over 16 the top of it. 17 MR. ABERCROMBIE: But this is it essentially 18 right there. And I apologize, I did that for my own, 19 because it helps me when I visualize it. But, yeah, we 20 would look to move it -- I guess in this particular case, 21 we would probably move it -- well, is your canal -- which 22 side is your canal on at this particular location? 23 MR. WELCH: The canal terminates right at that 24 point, so if we moved it north -- 25 MR. ABERCROMBIE: So you could put it on the</p>
<p style="text-align: right;">Page 54</p> <p>1 have, you know, developed standards that you want to see, 2 and that's where we want to go in that sense. And, you 3 know, if we were Caltrans and we were doing this design 4 bid build it would be really easy, because you'd have a 5 set of plans to look at a hundred percent. In the design 6 bid build category, what we have to do is construct a 7 document that says "Mr. Contractor, you're going to go to 8 the water district, here are their standards. You're 9 going to apply for a permit, you've got to meet those 10 standards and give them a design that satisfies them," 11 you know, "we'll pay the time" and this, that and the 12 other. And that's your assurance that it's going to be 13 built right and designed right for anything that we 14 wouldn't otherwise design. 15 MR. WELCH: Where you cross one of our 16 pipelines, if you just do within your right of way, you 17 will be doing work on your High-Speed Rail, because the 18 ground will be saturated because our pipe will be broken 19 and the ground under your facility will be unstable, and 20 it will -- 21 MR. ABERCROMBIE: Yeah, no, I mean, that's -- I 22 mean, it has to be replaced. 23 MR. WELCH: So you need to go further than just 24 in your right of way. 25 MR. ABERCROMBIE: No, and I -- I think that's</p>	<p style="text-align: right;">Page 56</p> <p>1 north side and that should be sufficient. Yeah, then 2 that would be what we would need to do. 3 UNIDENTIFIED SPEAKER: Which one is that, Doug? 4 MR. WELCH: That's the Askew pond. 5 MR. ABERCROMBIE: Roughly on Road 9, you said? 6 MR. LEVERENE: That's a perfect example of what 7 you were talking about before, if there's a way that the 8 line can be adjusted one way or the other to reduce the 9 impacts -- 10 MR. ABERCROMBIE: In that particular case. 11 MR. LEVERENE: -- that's what we'd want to do. 12 BOARD MEMBER MANDALA: Well, I'm like Kopshever, 13 I'd rather have it over here. See, this goes to 14 Kopshever's people and this goes to me. So I'm going to 15 be like Kopshever, I want it on 24, not on 21. That's 16 why Kopshever wants it on 21, he works for the people 17 that own property on 24, so -- you know, you guys got to 18 realize what's going on here, you know what I mean? 19 MR. ABERCROMBIE: I do. 20 BOARD MEMBER MANDALA: Okay. 21 MR. ABERCROMBIE: And that's why I thought it 22 was worth my time to make sure we got 152 back on the 23 table. Madera County just -- even in voting that they 24 don't like us, said, "We want it on 152," so, I mean -- 25 MR. TAYLOR: There are landowners on 152 too.</p>

<p style="text-align: right;">Page 57</p> <p>1 MR. ABERCROMBIE: I know I appreciate it, I know</p> <p>2 the FRA appreciates it. It doesn't matter where it goes,</p> <p>3 somebody will be impacted by it. I-5, somebody would be</p> <p>4 impacted on it.</p> <p>5 BOARD MEMBER UPTON: Not a lot. Not a lot,</p> <p>6 and plus --</p> <p>7 MR. ABERCROMBIE: Altamont, somebody would be</p> <p>8 impacted on it.</p> <p>9 BOARD MEMBER UPTON: The advantage of I-5 is the</p> <p>10 one farmer you have on your farmer committee, Mr. Diener,</p> <p>11 has land on I-5. If he's so much in favor of it, let</p> <p>12 them go through his ranch.</p> <p>13 MR. ABERCROMBIE: That goes back for a while</p> <p>14 too, but -- let me rephrase that. Yes, we would move the</p> <p>15 pond, and I think that would take care of that question</p> <p>16 for you, before we digress.</p> <p>17 BOARD MEMBER TAYLOR: Once you pick a spot from</p> <p>18 A to B and you chose to go through these farmers,</p> <p>19 wherever it would be, if you picked a spot today, when</p> <p>20 would the process be completed? Okay. For instance, if</p> <p>21 Farmer A knows it's going through his property, is he</p> <p>22 going to sit there forever with the handicap of knowing</p> <p>23 it's going through his property? Even now that we've --</p> <p>24 I've received multiple letters on all different types of</p> <p>25 properties. I'm probably legally binded when I sell the</p>	<p style="text-align: right;">Page 59</p> <p>1 some of those records to other agencies who may have an</p> <p>2 interest in the distribution. It was determined, with</p> <p>3 respect to that record for the 152, that the release of</p> <p>4 the records would cause direct harm to FRA, and was</p> <p>5 deliberative -- under Exception B(5) as deliberative</p> <p>6 internal agency records, because -- I mean, our essential</p> <p>7 concern is that to the extent the record is developed by</p> <p>8 the authority, we rely on an open and transparent process</p> <p>9 between the authority and FRA, and to the extent that in</p> <p>10 any way harms, we can't really implement the project or</p> <p>11 oversee our grant.</p> <p>12 BOARD MEMBER UPTON: Okay. Fair enough. It</p> <p>13 said a search indicated FRA files do not contain a copy</p> <p>14 of this final report, so I'd ask Mr. Abercrombie or</p> <p>15 Mr. Wenzel could we get a copy of that, since it's in the</p> <p>16 technical memorandum of the Merced to Fresno section,</p> <p>17 could we get a copy of that, those seven pages?</p> <p>18 MR. ABERCROMBIE: I don't know. I would have to</p> <p>19 ask.</p> <p>20 BOARD MEMBER UPTON: Could you check?</p> <p>21 MR. ABERCROMBIE: I would be happy to ask. And</p> <p>22 I would have to ask FRA, you know, you might need to help</p> <p>23 guide me on this. If I heard Chris right, so correct me,</p> <p>24 is it was a -- it's a draft report?</p> <p>25 MR. VAN NOSTRAND: It's a draft report developed</p>
<p style="text-align: right;">Page 58</p> <p>1 property to state that I have received something from the</p> <p>2 High-Speed Rail saying, you know, in their wisdom they</p> <p>3 may come through my property. So stating that now, but</p> <p>4 when would the farmer be compensated, when would you</p> <p>5 actually take possession of the land, how would that all</p> <p>6 happen?</p> <p>7 BOARD CHAIRMAN MADDALENA: That's down on the</p> <p>8 agenda.</p> <p>9 MR. ABERCROMBIE: I was going to say, do we want</p> <p>10 to table that for a little bit? Let's table that for a</p> <p>11 bit.</p> <p>12 BOARD MEMBER UPTON: I have one question for the</p> <p>13 FRA, since we're on there, the attorney there. They did</p> <p>14 not comply with our request on the FOIA and they deleted</p> <p>15 seven pages because -- on a draft report on the 152 Wye</p> <p>16 design option, because releasing this report would cause</p> <p>17 direct harm to the FRA. Could we expand on that a little</p> <p>18 bit?</p> <p>19 MR. VAN NOSTRAND: Yeah. This is Chris, I don't</p> <p>20 have a lot in front of me, I apologize. During the FOIA</p> <p>21 process, as you folks probably know, FRA does a record</p> <p>22 search to identify those records that are responsive, we</p> <p>23 believe are responsive to the request. After identifying</p> <p>24 those records under both our FOIA regulations, as well as</p> <p>25 DOJ guidance, we're responsible or required to provide</p>	<p style="text-align: right;">Page 60</p> <p>1 by the authority. I have a final copy of the report.</p> <p>2 MR. ABERCROMBIE: And I don't know whether we</p> <p>3 ever made a final copy, but --</p> <p>4 BOARD MEMBER UPTON: Whatever you've got we</p> <p>5 would like to see.</p> <p>6 MR. ABERCROMBIE: -- I will -- well, like I</p> <p>7 said, I will ask, Kole. I will ask.</p> <p>8 BOARD MEMBER UPTON: Fair enough.</p> <p>9 MR. ABERCROMBIE: I mean, I'm not a legal guy,</p> <p>10 so I can't tell you what rules apply or don't apply.</p> <p>11 BOARD MEMBER UPTON: I'm not a legal guy either,</p> <p>12 but I am paranoid, and when they said this will</p> <p>13 embarrassing to them and they weren't going to show it to</p> <p>14 us, I thought why not, you know.</p> <p>15 MR. ABERCROMBIE: Got you. I got you.</p> <p>16 BOARD MEMBER UPTON: Okay.</p> <p>17 MR. WELCH: Could we move on to 5(a), access to</p> <p>18 facilities?</p> <p>19 MR. ABERCROMBIE: Oh, we're going back up. Got</p> <p>20 it. Got it. Got it.</p> <p>21 MR. WELCH: So access to facilities, as I was</p> <p>22 stating, Ken Swanson with AECOM indicated at every place</p> <p>23 where the High-Speed Rail crossed our facilities, they</p> <p>24 would build some type of a structure that would -- a</p> <p>25 concrete structure that would get us from one side to the</p>

<p style="text-align: right;">Page 61</p> <p>1 other, down through a box, back up, similar to a box 2 culvert. I asked him what size vehicle is going to be 3 able to go through that, he said, "Well, definitely a 4 pickup," I was shooting for at least a dump truck. But, 5 anyway, we were assured that we would have access from 6 one side to the other.</p> <p>7 Another discussion was road closures and how 8 you're going to be building overpasses. For instance, an 9 example is on the Avenue 21 route where you cross Road 16 10 we have a -- you're on the north side of Avenue 21, we 11 have a canal that's on the south side of Avenue 21. And 12 Road 16, you'd be making an overcrossing over the Avenue 13 21 railroad right of way. In order to -- it looked like 14 from the one side possibly we were going to have access 15 to the county road and the overpass, but from the east 16 side it didn't look like from what -- you know, the 17 footprint drawings that we were going to have access. 18 I'd sure like Chowchilla Water District to have access to 19 the county road that's open. I mean, it's bad enough 20 that you're going to close another road just a mile away, 21 but now to not even have access to the overpass, that 22 would -- keep in mind that we're talking about Chowchilla 23 Water District with the devil's triangle built in it, all 24 these Wyes -- 25 MR. ABERCROMBIE: No, no, there will only be one</p>	<p style="text-align: right;">Page 63</p> <p>1 you have less to worry about in terms of access. It may 2 be more appropriate to actually build that extra canal.</p> <p>3 MR. WELCH: Every single place where there's 4 water being delivered you've got a meter or a measurement 5 --</p> <p>6 MR. ABERCROMBIE: The turnouts you called them, 7 right?</p> <p>8 MR. WELCH: Right. And we go there once or 9 twice a day.</p> <p>10 MR. ABERCROMBIE: So that may or may not be 11 impractical is what you're telling me.</p> <p>12 MR. WELCH: It's not like in the city where 13 you're saying --</p> <p>14 MR. ABERCROMBIE: It's pressurized.</p> <p>15 MR. WELCH: It's pressurized and you read that 16 meter once a month. It's every single day he's going 17 down that canal multiple times, because we provide what's 18 called a modified demand system. Farmer calls in the day 19 before and says "I'd like to get water at eight o'clock 20 start." A farmer three miles down the canal, he also 21 wants to start at eight o'clock. So the ditch tender has 22 got to look and see who is all going off, can you match 23 any of those orders and get them to that point at the 24 same time, does he need to put more water into the canal 25 and how many times does he have to do that. He may have</p>
<p style="text-align: right;">Page 62</p> <p>1 Wye. Just for clarification, there's one.</p> <p>2 MR. WELCH: Right, there's one that's 3 essentially a triangle, and so I've got a guy that's 4 going down a canal, he runs into one part of the Wye, so 5 he's got to turn around and drive back two miles, "Oh, 6 that road is closed, so I can't use that road, so I got 7 to drive over another mile to get to a road that's open, 8 get across Highway 152, then go back up. No, I can't go 9 on that road, it's closed" and finally get over back to 10 our facilities. So he's maybe driven five, six miles 11 just where he could have gone from Point 1 to Point 2 in 12 ten feet.</p> <p>13 MR. ABERCROMBIE: You know, that's a -- you 14 know, where those types of conditions exist, we need to 15 talk in terms of what's the appropriate access.</p> <p>16 MR. WELCH: It's a place where right smack in 17 the middle of the Wye is a lot of them.</p> <p>18 MR. ABERCROMBIE: Well, in some of those, you 19 know, maybe the proper solution is, and, again, depending 20 on where your control elements are on that particular 21 piece of canal and where they are in the -- within the 22 middle of the Wye, you know, it may be appropriate to try 23 to reconfigure that if there's a different way to control 24 the flow and put it all underground or something so that 25 it's maintenance free, other than the control issues, and</p>	<p style="text-align: right;">Page 64</p> <p>1 to run his ditch two or three times.</p> <p>2 MR. ABERCROMBIE: Over the course of a day.</p> <p>3 MR. WELCH: And if he's having to backtrack four 4 or five times a day five extra miles, that's going to -- 5 that's going to maybe add -- during the peak time of the 6 year, I might have to double the amount of ditch tenders 7 I have.</p> <p>8 MR. ABERCROMBIE: This is where, and we 9 didn't -- I don't have a map for it, where it would be 10 really good to sit down with you and our road guys, you 11 and our staff, and what I don't have on a drawing like 12 this or a drawing like that is the overcrossings and 13 where they are with relationship to our alignment, so 14 that, you know, we can talk about those scenarios and 15 then find what would be appropriate, because -- you know, 16 I mean, I'll be a little bit silly about it, it could be 17 cheaper for us as an impact fee to pay for your extra 18 staff during the summer, because, you know, that works. 19 But, you know, I think that's kind of a silly solution. 20 I think there are better solutions.</p> <p>21 MR. WELCH: You might put a crossing underneath 22 your -- with a box culvert that we can drive through with 23 a pickup.</p> <p>24 MR. ABERCROMBIE: Exactly. You know, so I -- 25 you know, all of those things we have to address. We are</p>

<p style="text-align: right;">Page 65</p> <p>1 required to make -- you know, so that when we've</p> <p>2 accounted for the impacts, you know, in terms of this</p> <p>3 disruption that you're able to do your job and we haven't</p> <p>4 left you wanting from at that standpoint.</p> <p>5 MR. WELCH: Let me just ask this question, Jeff,</p> <p>6 because this is the question that I asked, "Are you going</p> <p>7 to" -- I asked to Ken Swanson, "Are you going to provide</p> <p>8 access to Chowchilla Water District from one side of the</p> <p>9 High-Speed Rail to the other," the answer was "Yes,</p> <p>10 Doug." Some people might not have been able to see,</p> <p>11 but --</p> <p>12 MR. ABERCROMBIE: You winked at me. I can't say</p> <p>13 that we will put one at every single canal, I don't know</p> <p>14 that.</p> <p>15 MR. WELCH: You have none in the draft EIR</p> <p>16 whatsoever.</p> <p>17 MR. ABERCROMBIE: No, again, I look -- well, I</p> <p>18 shouldn't say that, I don't know, because I don't know</p> <p>19 all of them in the draft. What I understand is in the</p> <p>20 draft is just the road crossings, so I'll take that --</p> <p>21 MR. WELCH: I'll tell you that I've looked</p> <p>22 through the draft EIR and there are no accesses to --</p> <p>23 MR. ABERCROMBIE: What I did mention earlier is</p> <p>24 is because those are private -- would end up being</p> <p>25 private facilities, that's more of the right of way and</p>	<p style="text-align: right;">Page 67</p> <p>1 will mitigate," either through paying for those extra</p> <p>2 people or paying for a crossing from one -- access from</p> <p>3 one side of the High-Speed Rail to the other at</p> <p>4 appropriate locations for the district.</p> <p>5 MR. ABERCROMBIE: We will mitigate, and that is</p> <p>6 exactly what our chairman has been saying for the last</p> <p>7 two weeks. That's our responsibility, and I thought I've</p> <p>8 communicated that all long, but --</p> <p>9 MR. WELCH: The draft EIR says for a farmer</p> <p>10 that's trying to get from this side to that side, there's</p> <p>11 an overpass down there two miles away that's -- "the</p> <p>12 impact on you is negligible" I kind of feel the same</p> <p>13 thing, as far as you don't say that about the water</p> <p>14 district, but you don't provide for one access to get</p> <p>15 from one side to the other in your draft EIR.</p> <p>16 MR. ABERCROMBIE: Merced to Fresno draft EIR.</p> <p>17 MR. WELCH: Yes.</p> <p>18 MR. ABERCROMBIE: Understood.</p> <p>19 BOARD MEMBER UPTON: I think as individuals</p> <p>20 we've probably looked at this in our own responsibility,</p> <p>21 each of us have a responsibility, mine is in Merced</p> <p>22 County. In your draft EIR, you refer to roads that don't</p> <p>23 exist. You have routes that are in the wrong county. I</p> <p>24 mean, how are you supposed to be able to even ask for</p> <p>25 mitigation when the thing is so flawed you'd have to</p>
<p style="text-align: right;">Page 66</p> <p>1 the impact, you know, from the standpoint of making an</p> <p>2 agreement on how we're going to reconfigure your system.</p> <p>3 It's not part of the public road issues that we have to</p> <p>4 do the traffic analysis on and whatnot, so it falls more</p> <p>5 appropriately in the idea of compensation in terms of the</p> <p>6 right of way type of stuff. We certainly can work on</p> <p>7 that earlier, and what's a little awkward is is when you</p> <p>8 have multiple routes that aren't decided, you know, now</p> <p>9 that means we have to spend a little bit of effort or</p> <p>10 more effort to figure out the scenarios for three routes</p> <p>11 if we try and do it ahead of time, versus once we know</p> <p>12 that it's 152 or whatever, then we can say "Okay. Well,</p> <p>13 here's the facilities we know are impacted, what's the</p> <p>14 best way to do it?" Well, if we got three options or if</p> <p>15 we've got four options, we've got to do this discussion</p> <p>16 of design over four options. So what's more appropriate,</p> <p>17 to do four options ahead of time or wait until we know</p> <p>18 what the preferred is and then get to that solution once?</p> <p>19 You know, it's -- I don't know if you want to call that</p> <p>20 chicken or egg or not, but that's kind of the scenario</p> <p>21 that we're in. I've had that with -- similar discussions</p> <p>22 with the City of Bakersfield.</p> <p>23 MR. WELCH: I would be satisfied with the</p> <p>24 response that "We will mitigate. We're not going to say</p> <p>25 that it's a negligible impact on the district, and we</p>	<p style="text-align: right;">Page 68</p> <p>1 rewrite it in order to do it. Again, we go back to the</p> <p>2 confidence thing here of how we're being treated, so I</p> <p>3 just second what Doug has been saying.</p> <p>4 MR. WELCH: I think I'm ready to go to 5(c).</p> <p>5 THE COURT REPORTER: Can we take a break?</p> <p>6 (Whereupon, a short recess was taken.)</p> <p>7 MR. WELCH: Chowchilla Water District doesn't</p> <p>8 have facilities that are able to deliver the maximum</p> <p>9 demand during July and August, they probably meet around</p> <p>10 70, 75 percent.</p> <p>11 MR. ABERCROMBIE: By facility or by amount</p> <p>12 available?</p> <p>13 MR. WELCH: By facilities, and the remainder of</p> <p>14 it is met by farmers using their deep wells. And there</p> <p>15 are some farmers that have, you know, pretty poor deep</p> <p>16 wells and other ones have better ones, and so they can --</p> <p>17 well, we have some farmers that if we're down for two or</p> <p>18 three days, they're depending on the irrigation cycle and</p> <p>19 where we hit them on, they can be in -- approaching</p> <p>20 pretty serious problems with -- let's say they were just</p> <p>21 getting ready to irrigate, you know, it's been ten days</p> <p>22 since they irrigated last, and they normally would</p> <p>23 irrigate on a nine-, ten-day schedule, now we're putting</p> <p>24 them out two or three more days because we have a</p> <p>25 problem with -- normally would be with a pipe, there's a</p>

<p style="text-align: right;">Page 69</p> <p>1 break in the pipeline and we're working on it. So I'll</p> <p>2 have to say that our facilities can't be down for a week</p> <p>3 during the months of June, July and August, it's just not</p> <p>4 acceptable. The crop loss would be possibly in the</p> <p>5 millions with a lot of almonds out there depending on</p> <p>6 where you are in the system. If you're up towards the</p> <p>7 head of a pipeline and you've got 20,000 acres being</p> <p>8 served by that pipeline --</p> <p>9 MR. ABERCROMBIE: It's a big deal.</p> <p>10 MR. WELCH: -- you can't take it down. In fact,</p> <p>11 we've had times -- I mean, we're putting a Band-Aid on</p> <p>12 and fixing it the best we can and --</p> <p>13 MR. ABERCROMBIE: Until you get past the peak.</p> <p>14 MR. WELCH: -- we're back up and running. You</p> <p>15 talk in the draft EIR about interruption. We need you</p> <p>16 not to be interrupting during our peak time, period.</p> <p>17 MR. ABERCROMBIE: The way this would be handled,</p> <p>18 and just like they've done it for Caltrans projects is is</p> <p>19 we want you to define us a window, it goes in the</p> <p>20 contract. Typically, we would -- you know, like for a</p> <p>21 freeway, you'll build that thousand feet of pipe or canal</p> <p>22 or whatnot wherever we need it, take it to the connection</p> <p>23 points, and then in September or, you know, January, or</p> <p>24 what is considered the appropriate time within that</p> <p>25 three-month window, you're going to say "You get two</p>	<p style="text-align: right;">Page 71</p> <p>1 to me is six months, so you're knocking out deep wells</p> <p>2 all over the district and we cannot supply water through</p> <p>3 the water district, you're going to have a heck of a</p> <p>4 situation. I do not think your consultants have any clue</p> <p>5 as to what the well drilling business is like here in the</p> <p>6 Central Valley and the time frame that's required to be</p> <p>7 on the list and to get it done.</p> <p>8 MR. ABERCROMBIE: I've been told that, you know,</p> <p>9 there's ways to try and plan for that.</p> <p>10 BOARD MEMBER UPTON: Really?</p> <p>11 MR. ABERCROMBIE: Yeah, part of it is just in</p> <p>12 terms of just the right of way process where we --</p> <p>13 especially on a project this large. If you're going to</p> <p>14 be building 20 miles, okay, in a big chunk and you've got</p> <p>15 an area where you've got to protect two or three deep</p> <p>16 wells in this mile, you know, "Mr. Contractor, you can't</p> <p>17 start work there until those wells are relocated," or</p> <p>18 from our standpoint, those are a small contract that</p> <p>19 potentially can be let ahead of the bigger contracts to</p> <p>20 get them out of the way even before we're there. And</p> <p>21 that's what I mean by a way to plan for it, Kole. I</p> <p>22 mean, understand -- I mean, you can throw oodles of money</p> <p>23 on it, too, and you can bring in more people to do some</p> <p>24 things, but at some point that curve becomes too steep,</p> <p>25 so you've got to think about it smart. And it doesn't --</p>
<p style="text-align: right;">Page 70</p> <p>1 weeks." So we've done all the pipe. We get to</p> <p>2 September, we shut it down for two weeks and we do those</p> <p>3 two tie-ins, and then you're back up again. That's how</p> <p>4 it would be handled.</p> <p>5 MR. WELCH: Okay.</p> <p>6 MR. ABERCROMBIE: It's done regularly. I've</p> <p>7 done it myself with regards to the work that I've done</p> <p>8 for Caltrans. Really what it does is it just takes</p> <p>9 planning. Some of your canals, I think based on</p> <p>10 different things I've read, you know, double for flood.</p> <p>11 MR. WELCH: During the winter, yes.</p> <p>12 MR. ABERCROMBIE: Yeah, so September -- or</p> <p>13 January, March might not be the right time, so, you know,</p> <p>14 it's just a matter of making sure we've got that defined,</p> <p>15 which ones that are impacted, when they're supposed to be</p> <p>16 used and how long they can be down for. So if it's two</p> <p>17 weeks in a three-month window, or whatever you feel is</p> <p>18 appropriate, that's how it would be handled. And it's</p> <p>19 specifically written in the contract that he has to</p> <p>20 handle it that way.</p> <p>21 BOARD MEMBER UPTON: What Doug was saying,</p> <p>22 though, on the farmers that have to use their deep wells,</p> <p>23 in some cases where some of these routes are knocking out</p> <p>24 five and six deep wells. I had a deep well go out last</p> <p>25 week, and the nearest I could even get somebody to talk</p>	<p style="text-align: right;">Page 72</p> <p>1 it's the same problem we have with Okay Produce in</p> <p>2 Fresno. They've got a facility and they've got tons of,</p> <p>3 you know, cold storage, you know, that's not easy to</p> <p>4 relocate, you essentially have to build them something</p> <p>5 ahead of time off-line. And even we buy their property,</p> <p>6 you know, in June that doesn't mean we're going to kick</p> <p>7 them out in June. We can't kick them out in June,</p> <p>8 because that would put them out of business. We've got</p> <p>9 to work with the city, get that other place built and,</p> <p>10 you know, get it done in a time frame so that, even if we</p> <p>11 have to tell our contractor work around for a while,</p> <p>12 we've got that arranged so that when this is built, he</p> <p>13 can go from here to here and open up four hours later or</p> <p>14 however -- and he may be able to transition or over a</p> <p>15 period of a week, you know, it's not like he picks it up</p> <p>16 all in one day. But, you know, the idea is -- what our</p> <p>17 goal is is, you know, there are opportunities to do this</p> <p>18 right and part of that's planning and knowing where your</p> <p>19 critical juncture type things are. It's no different</p> <p>20 than building a bridge. Bridges are usually harder to</p> <p>21 build than a road and take a longer time, so the</p> <p>22 contractors generally want to start on bridges and things</p> <p>23 like that before they get down to the roadway.</p> <p>24 BOARD MEMBER UPTON: Yeah, I get all that.</p> <p>25 MR. ABERCROMBIE: You're just trying to make</p>

<p style="text-align: right;">Page 73</p> <p>1 sure I'm not forgetting, and it's going to be hard.</p> <p>2 BOARD MEMBER UPTON: It's the process that we've</p> <p>3 been involved in, and I go back to what Doug said, by</p> <p>4 concentrating on the city, it seemed to me that your</p> <p>5 route selections would save you a whole lot of problems.</p> <p>6 It seems to me you're going through, getting your route</p> <p>7 selections and then you're going out and saying "Well,</p> <p>8 gee, all these impacts," whereas if you look at it in a</p> <p>9 different way, "Gee, we could have avoided all this if we</p> <p>10 had just done X, Y and Z ahead of time." So I guess</p> <p>11 that's the process, the way rail people do things, so --</p> <p>12 MR. ABERCROMBIE: Well, it's the at-risk way</p> <p>13 we're doing what we're doing now, because --</p> <p>14 BOARD MEMBER UPTON: okay.</p> <p>15 MR. ABERCROMBIE: -- you know, taking longer we</p> <p>16 get beat up for and hurrying we get beat up for, and so</p> <p>17 we're just going to, you know, do the best we can to</p> <p>18 balance those two.</p> <p>19 I'll bring it back to this is that's an</p> <p>20 excellent opportunity for you to say "Well, if you move</p> <p>21 this over a thousand feet, instead of hitting ten wells</p> <p>22 you hit three," that's a good recommendation and we're in</p> <p>23 the position to do that.</p> <p>24 BOARD MEMBER UPTON: Well, if you're talking my</p> <p>25 place, I'm not going to help you, you know.</p>	<p style="text-align: right;">Page 75</p> <p>1 extremely difficult. The farmers -- and then to be</p> <p>2 anticipating all these other things, it's helter-skelter</p> <p>3 for a lot of us trying to figure it out, to raise our</p> <p>4 families and to make plans, so it's tough.</p> <p>5 MR. WELCH: Let's move on to the next item,</p> <p>6 5(d).</p> <p>7 BOARD MEMBER TAYLOR: My question never got</p> <p>8 answered on (c) when I asked it too early.</p> <p>9 MR. ABERCROMBIE: That was 6. Was it that or</p> <p>10 was it 6? Oh, okay. Yeah, I can give you a little bit</p> <p>11 of a process.</p> <p>12 BOARD MEMBER TAYLOR: Okay.</p> <p>13 MR. ABERCROMBIE: I mean, I talked a little bit</p> <p>14 about it. We should be, just because of the time frames</p> <p>15 we're in and trying to be as proactive as we can, we will</p> <p>16 probably be sending out notices to appraise probably in a</p> <p>17 few weeks in Fresno. Now, that is --</p> <p>18 BOARD MEMBER TAYLOR: You picked the route,</p> <p>19 right?</p> <p>20 MR. ABERCROMBIE: We have a preferred in Fresno</p> <p>21 and, you know, everybody knows where it is, it's right</p> <p>22 along the UP in Fresno. We officially do not have any</p> <p>23 EIR docs, so the route is not picked technically. So</p> <p>24 when I say we go out to appraise, it means we will take</p> <p>25 our property owners, we'll assign them an appraiser and</p>
<p style="text-align: right;">Page 74</p> <p>1 MR. ABERCROMBIE: I can only ask -- I can't</p> <p>2 force anybody. I can't force anybody to do it, all I can</p> <p>3 do is ask.</p> <p>4 BOARD MEMBER UPTON: Well, I'm with Vince on</p> <p>5 that, I'm not going to go throw my neighborhood under the</p> <p>6 train, like the mayor of Fresno is going to throw us all</p> <p>7 under the train to get what she wants, we're not that</p> <p>8 way.</p> <p>9 BOARD MEMBER WORLFSHORNDL: The other thing is,</p> <p>10 too, it's a little difficult, because we understand we</p> <p>11 can't predict Mother Nature. We're in the water</p> <p>12 business, and this year is totally different from last</p> <p>13 year and how these things can be set up in a plan. How</p> <p>14 do you plan for it? It's going to be extremely difficult</p> <p>15 sometimes. We don't know one day from the next.</p> <p>16 MR. ABERCROMBIE: Yeah, you don't know whether</p> <p>17 you'll be irrigating --</p> <p>18 BOARD MEMBER WORLFSHORNDL: In our environment</p> <p>19 it happens so fast, so it's going to be extremely</p> <p>20 difficult.</p> <p>21 MR. ABERCROMBIE: Your irrigation stations</p> <p>22 probably started a little sooner than --</p> <p>23 BOARD MEMBER WORLFSHORNDL: They already have.</p> <p>24 Last year we had plenty of water, the Lord blessed us</p> <p>25 with it. This year it's totally different, and so it's</p>	<p style="text-align: right;">Page 76</p> <p>1 they will go out and meet and get the information they</p> <p>2 need to start the process. We can't make an actual</p> <p>3 offer. We can't do negotiations until we have that EIR</p> <p>4 doc done, so we're starting a little earlier by doing</p> <p>5 that. But in the scenario we're talking about here, what</p> <p>6 would probably happen is we'd get our final document,</p> <p>7 then you would see the letter, you'd get your appraisals</p> <p>8 worked up. And that appraisal process, you know,</p> <p>9 different properties will take a different amount of time</p> <p>10 because of the complications of any given one. But they</p> <p>11 will go through, they will meet with -- an appraiser will</p> <p>12 meet with you. There's a number of appraisal specialists</p> <p>13 that are involved depending on, you know, the business or</p> <p>14 whatever. There will be an ag specialist if you're</p> <p>15 into -- you know, in terms of a business and different</p> <p>16 things. There's relocation specialists, and that</p> <p>17 certainly could apply to farm facilities too. And there</p> <p>18 are several others that go on. There will probably be</p> <p>19 somebody who will be helping coordinate with permits if</p> <p>20 there's new permits needed. Dan Richard has talked about</p> <p>21 getting the governor to put together a -- well, they call</p> <p>22 it a tiger team, whatever, the idea that there will be</p> <p>23 people dedicated to facilitate the permit processes that</p> <p>24 are dealt with by other state agencies. Regulatory, in</p> <p>25 terms of water quality. Dairies is what kind of started</p>

<p style="text-align: right;">Page 77</p> <p>1 this discussion, the idea that it's very difficult, in</p> <p>2 terms of dairy impact, dairy permitting. Well, if this</p> <p>3 is a public project for a state agency, and another state</p> <p>4 agency is required to participate due to the impacts</p> <p>5 because of a permit, you know, gee, whiz, wouldn't it be</p> <p>6 smart if the two agencies could figure out how to get it</p> <p>7 done sooner, rather than just kind of toss the ball over</p> <p>8 the fence and leave the farmer out of luck. But the idea</p> <p>9 is you will have a couple of specialists that will meet</p> <p>10 with you and try and make sure they have an adequate</p> <p>11 picture of what your infrastructure is, you know, what</p> <p>12 the property is, all the inputs that would affect the</p> <p>13 appraisal. That's got to go through the appraiser. It</p> <p>14 will go through the authority, who will check it, and</p> <p>15 then it has to go through, I think it's DGS who has to do</p> <p>16 their check to it. Then it will come back as an offer,</p> <p>17 that offer -- you know, then it's a matter of back and</p> <p>18 forth and so on. Dan Richards and Tom -- Tom Richards</p> <p>19 and Dan Richard had this discussion with several property</p> <p>20 owners on Golden State, and they're very committed that</p> <p>21 we're not out here -- and we -- they likened -- the</p> <p>22 businesses likened it to Caltrans as being very poor and</p> <p>23 their commitment to them was the authority will not be</p> <p>24 like Caltrans. We want to come in with a good fair</p> <p>25 offer, because Dan's goal is no condemnations,</p>	<p style="text-align: right;">Page 79</p> <p>1 BOARD MEMBER TAYLOR: Okay.</p> <p>2 MR. ABERCROMBIE: So it might take about six</p> <p>3 months.</p> <p>4 BOARD MEMBER TAYLOR: So once I get a letter</p> <p>5 saying "Hey, we're taking your property," by six months</p> <p>6 I'm going to have --</p> <p>7 MR. ABERCROMBIE: Theoretically you'll have an</p> <p>8 offer that you can look at and go "Oh, I don't like it"</p> <p>9 or "Oh, that's not too bad" or whatever, or "Gee, whiz,</p> <p>10 you forgot this that we talked about, please put this in</p> <p>11 the offer" and then we go from there.</p> <p>12 BOARD MEMBER TAYLOR: If I take the offer, how</p> <p>13 long does it take to get a check? How long am I off</p> <p>14 the -- do I keep the property -- do I possess the</p> <p>15 property until you actually start construction? She's</p> <p>16 got a question over there, she's trying to get your</p> <p>17 attention.</p> <p>18 MS. HUMPHREY: Oh, I was just -- we were just</p> <p>19 talking about this the other day, and we talked about six</p> <p>20 months to the offer, assuming there's a final document,</p> <p>21 and some of those things that you're talking about are</p> <p>22 discussed with the appraisers on a one-on-one basis</p> <p>23 property by property, so it's kind of hard to give a</p> <p>24 specific timeline.</p> <p>25 MR. ABERCROMBIE: Well, I'll talk about a couple</p>
<p style="text-align: right;">Page 78</p> <p>1 realistically that probably won't happen. So those --</p> <p>2 BOARD MEMBER TAYLOR: How long did all that just</p> <p>3 take?</p> <p>4 MR. ABERCROMBIE: That took probably six months</p> <p>5 or so.</p> <p>6 BOARD MEMBER TAYLOR: From the time you pick the</p> <p>7 property to the time we have an appraisal.</p> <p>8 MR. ABERCROMBIE: The time you have an offer in</p> <p>9 hand, roughly.</p> <p>10 BOARD MEMBER TAYLOR: From the time you pick the</p> <p>11 route until the time you have an offer is six months?</p> <p>12 MR. ABERCROMBIE: Yes, from that finished EIR to</p> <p>13 there.</p> <p>14 BOARD MEMBER UPTON: But you got to start</p> <p>15 construction by September.</p> <p>16 MR. ABERCROMBIE: No, no -- well, are we talking</p> <p>17 about here or are we talking about there?</p> <p>18 BOARD MEMBER UPTON: There.</p> <p>19 BOARD MEMBER TAYLOR: Anywhere in general. I</p> <p>20 would imagine they're all the same.</p> <p>21 MR. ABERCROMBIE: Then -- no, they're not. No,</p> <p>22 they're not. I mean, they are and they aren't. Let's</p> <p>23 just talk about kind of a normal process, and we'll talk</p> <p>24 about Fresno -- I can talk about Fresno specifics in a</p> <p>25 minute.</p>	<p style="text-align: right;">Page 80</p> <p>1 of nuances later.</p> <p>2 MS. HUMPHREY: Okay.</p> <p>3 MR. ABERCROMBIE: Yeah, I'm talking about just</p> <p>4 kind of an ideal process. Okay? And, you know, I don't</p> <p>5 know how long it will to go -- assuming you say "Yeah,</p> <p>6 that's okay," I would assume that probably within three</p> <p>7 months you could have a check, maybe -- but, you know,</p> <p>8 I'm giving the state a little credit that maybe they can</p> <p>9 do it in three months, I don't know.</p> <p>10 BOARD MEMBER TAYLOR: We're nine months into</p> <p>11 this now.</p> <p>12 MR. ABERCROMBIE: You're roughly nine months</p> <p>13 into, could be sooner, but roughly nine months into it.</p> <p>14 The state must give you 90 days before you vacate.</p> <p>15 That's the statute.</p> <p>16 BOARD MEMBER TAYLOR: So we're a year.</p> <p>17 MR. ABERCROMBIE: Doesn't mean you couldn't</p> <p>18 voluntarily vacate sooner. It also doesn't mean that we</p> <p>19 couldn't make the contingent, the offer, be such that you</p> <p>20 can continue to farm and do whatever you want to do on</p> <p>21 the property until such time as we let the contract,</p> <p>22 which could be, who knows, a year, 18 months, 6 months,</p> <p>23 but --</p> <p>24 BOARD MEMBER TAYLOR: Six years, ten years.</p> <p>25 MR. ABERCROMBIE: No.</p>

<p style="text-align: right;">Page 81</p> <p>1 BOARD MEMBER TAYLOR: If it dies. Okay. Now, 2 this thing happens, boom, it dies, money was taken away, 3 once the money is taken away the track stops, I would 4 imagine, there's not too many private investors in this. 5 MR. ABERCROMBIE: We're getting into business 6 plan stuff, and that's a little bit outside what we need 7 to talk about today. But -- so that's kind of how the 8 process would unfold. Now, let's talk just a little bit 9 about exceptions. Fresno, you know, there are properties 10 that will take longer to move than others, those are the 11 ones we're going to focus on first. You know, the idea 12 is the Okay Produce -- so there will be a lot of efforts 13 to focus on the ones that are critical or the ones that 14 are on a piece of a bridge or infrastructure that's going 15 to take longer to build, so we need it sooner, so, you 16 know, we're going to try and focus on those. So if you 17 happen to be out in maybe Golden State where isn't as 18 critical, you may not be the first one that's called up 19 and an offer made to, because there's -- you know, with 20 300 and whatever there is going to be some period in 21 there that -- of inactivity. We're going to put, 22 obviously, as many people on it as we can. So it's not 23 like you'll get a call necessarily the day after the 24 route is determined, because we're going to try to 25 prioritize, both from the standpoint of people that have</p>	<p style="text-align: right;">Page 83</p> <p>1 can do a 1033, which gives you a different tax structure 2 on what you can do with the money versus if you just 3 outright sell it willingly. So even though they willing 4 go ahead and sell it, would it be in lieu of 5 condemnation. 6 MR. ABERCROMBIE: I'll leave that between you 7 and the appraiser, because I don't know. I understand 8 that happens is "I like your offer, but I'm not going to 9 accept it because," wink. 10 BOARD MEMBER TAYLOR: "Go ahead and take it." 11 MR. ABERCROMBIE: Exactly, "I'm not really going 12 to fight you," -- 13 MR. WENZEL: I think it's called inverse 14 condemnation. 15 MR. ABERCROMBIE: No, I don't know if it's 16 called that, but I know what you mean, there is a tax 17 benefit if it's -- 18 BOARD MEMBER TAYLOR: Just curious. 19 MR. ABERCROMBIE: Well, it isn't, it's a very 20 difficult question, because it's a very technical right 21 of way question, so I can't answer it. 22 BOARD CHAIRMAN MADDALENA: My question is how 23 being a path are you taking? How big a path are you 24 buying and from -- how close to the track can I farm 25 and --</p>
<p style="text-align: right;">Page 82</p> <p>1 to be moved and things that have to be done. 2 BOARD MEMBER TAYLOR: That makes sense. 3 MR. ABERCROMBIE: So we'll be looking at -- and 4 those are some of the exceptions. The other exceptions 5 for Fresno, as I mentioned, we're actually starting a few 6 months before we got the EIR by at least getting the 7 appraiser and the landowner talking. The other some of 8 things we'll do in Fresno, which we probably wouldn't 9 have to do, hopefully don't have to do in, for example, 10 this area is, you know, we'll have a record of decision 11 and we won't have a contract hot on our heels, you know, 12 ready to go the next day. So there likely will be a 13 little more period of time that you can work a little 14 more of this stuff out. So that's a rough time frame, 15 exceptions will occur because of it. Does that answer 16 the question? 17 BOARD MEMBER TAYLOR: Would the payments be paid 18 in lieu of condemnation? 19 MR. ABERCROMBIE: You know, that might be a real 20 estate question, because I don't -- 21 BOARD MEMBER TAYLOR: It's a big difference. 22 MR. ABERCROMBIE: I don't understand the 23 question. 24 BOARD MEMBER TAYLOR: Well, in lieu of 25 condemnation, if you're in a treat of condemnation, you</p>	<p style="text-align: right;">Page 84</p> <p>1 BOARD MEMBER TAYLOR: Spray and -- on a normal 2 procedure, normal procedure on a farm, how close can you 3 go? 4 MR. ABERCROMBIE: Generally speaking, we are a 5 hundred-foot wide. When we get to a bridge, we're going 6 to be looking at about 60 foot of right of way, the 7 bridge is about 50 foot, but we're going to want a little 8 space on each side. 9 BOARD MEMBER TAYLOR: So you're a hundred -- 10 MR. ABERCROMBIE: A hundred-foot wide. 11 BOARD MEMBER TAYLOR: That's what you're buying? 12 MR. ABERCROMBIE: That's what we want to buy. 13 Now, there will be places where we'll buy a little more 14 or a little less, because there are other facilities that 15 go with -- you know, you have to put traction -- what 16 they call traction power stations and maybe a 17 communication station, you know, radio tower, different 18 things here and there, but essentially a hundred feet. 19 BOARD CHAIRMAN MADDALENA: A hundred feet, so 20 basically this side of the track -- 21 MR. ABERCROMBIE: 50 feet, 50 feet. 22 BOARD CHAIRMAN MADDALENA: So I don't have a 23 problem farming 50 feet from your High-Speed Rail? 24 MR. ABERCROMBIE: No. Now, when it's that gray, 25 we -- and because of the speeds we travel, it's fenced,</p>

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1 you know, so that's different than what a farmer would
 2 experience here.
 3 BOARD CHAIRMAN MADDALENA: Well, I'm saying if
 4 you're only buying a hundred foot, that's all you got.
 5 MR. ABERCROMBIE: That's correct.
 6 BOARD CHAIRMAN MADDALENA: I can farm 50 feet
 7 out.
 8 MR. ABERCROMBIE: Now, in the appraisal process
 9 we have to -- we buy that. But if, because you need a
 10 turnaround row and you're going to take out two or three
 11 trees, we also -- the authority has to compensate for the
 12 impacts to the land that we don't buy. So if you lose
 13 two rows of trees, for example, then that's something
 14 that we might be compensating you for. And I say might,
 15 because it's really part of the real estate negotiation
 16 that has to be paid for for the land that remains.
 17 BOARD CHAIRMAN MADDALENA: That was my next
 18 question. My next question is when you guys -- if you're
 19 cutting through a piece at an angle, say you have a
 20 20-acre partial and you cut through a piece, sometimes
 21 you make that piece not very sellable, because you
 22 basically ruin it.
 23 BOARD MEMBER TAYLOR: Are you obligated to buy
 24 that piece?
 25 BOARD CHAIRMAN MADDALENA: Are you obligated to

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1 buy the whole piece? What do you --
 2 MR. ABERCROMBIE: Again, that's a --
 3 BOARD MEMBER TAYLOR: She says no.
 4 MS. HUMPHREY: No, I'm sorry, I'm saying --
 5 case-by-case basis.
 6 BOARD MEMBER TAYLOR: She's shaking her head no.
 7 MS HUMPHREY: Case-by-case basis. I'm sorry, I
 8 just --
 9 MR. ABERCROMBIE: Well, I mean, it's back to --
 10 that tends to fall into the right of way negotiations.
 11 When we made our estimate in terms of the amount of ag
 12 acreages that we put in the EIR doc, we tried to estimate
 13 what would be considered additional takes by remnant
 14 partials. And that may or may not return to farming. In
 15 other words, if you -- if we buy -- out of your 20-acre
 16 field we chop off 3, and we only needed 2, but that last
 17 acre was just kind of sitting there in the corner. Well,
 18 hopefully, that could be resold and, you know, maybe it
 19 will never be production farming, but it may become your
 20 neighbor's pond or something else that would facilitate
 21 the ag use.
 22 BOARD MEMBER TAYLOR: Who would sell it to the
 23 neighbor? You would sell it to the neighbor or you want
 24 me to sell it to the neighbor?
 25 MR. ABERCROMBIE: No, no, I'm talking about it

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1 being a remnant.
 2 BOARD MEMBER TAYLOR: You would buy it and then
 3 you would sell it to the neighbor?
 4 MR. ABERCROMBIE: There are other things, and
 5 the Spanish paper talked about it, is, you know, if we
 6 were right down the middle of 40 acres and essentially
 7 you have now 18 on each side and a particular owner is,
 8 like -- back to this getting back and forth, you know,
 9 depending upon how imaginative you can be and how
 10 willing, you know, we wanted to do it, we can arrange
 11 land swaps, you know, so that if this farmer lost -- you
 12 know, was bisected and this farmer was bisected, well,
 13 could these two opposite corners be swapped? It's
 14 possible, the question is, you know, like land, like
 15 crops, like --
 16 BOARD MEMBER TAYLOR: Deep wells.
 17 MR. ABERCROMBIE: All of it -- it's not going to
 18 work in every situation, it's not the panacea, but it
 19 is -- you know, the point is if it can be done to return
 20 it so that it's back to production, that's a good thing.
 21 BOARD CHAIRMAN MADDALENA: Another question is
 22 you go through a hundred-acre block and you buy a hundred
 23 feet, I got my pump on this side, I've got my pumping
 24 station on this side, basically you've cut me off from
 25 this other 50 acres, what do you do there?

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1 MR. ABERCROMBIE: That's one of the things that
 2 Doug made reference to, the idea of putting, you know, a
 3 steel case casing in. It may be that we're going to have
 4 to pay for your irrigation system to be redesigned. You
 5 know, if it's pressurized it's a little simpler than if
 6 it's gravity flow.
 7 BOARD CHAIRMAN MADDALENA: So you just have to
 8 wait and see.
 9 MR. ABERCROMBIE: But we're responsible -- you
 10 know, if you want to continue to farm and it makes sense
 11 for you to continue to farm both sides, we have to make
 12 that whole. And it could be drill a well on the other
 13 side, and so you've got two wells now and maybe a conduit
 14 underneath. I mean, there's a variety of ways to do it
 15 and that's part of the right of way process.
 16 BOARD CHAIRMAN MADDALENA: I'll give you another
 17 example. I've got a piece you guys actually have one
 18 route and it's cutting through seven partials. I mean,
 19 it's just one ranch, it's kind a group of ranches,
 20 they're cutting through every damn partial I have.
 21 MR. ABERCROMBIE: Really? It wasn't on purpose.
 22 BOARD MEMBER UPTON: It sure looks like that.
 23 MR. ABERCROMBIE: I know, it does to everybody.
 24 BOARD CHAIRMAN MADDALENA: (Inaudible) -- "how
 25 can I just run this piece of ground, oh, cut right

<p style="text-align: right;">Page 89</p> <p>1 through there."</p> <p>2 MR. ABERCROMBIE: You know, if we could turn</p> <p>3 this thing on a dime, it would make life a lot simpler,</p> <p>4 unfortunately, we can't.</p> <p>5 BOARD CHAIRMAN MADDALENA: Well, I'm just saying</p> <p>6 there's going to be a lot of impact.</p> <p>7 MR. ABERCROMBIE: That's a lot of impact.</p> <p>8 BOARD CHAIRMAN MADDALENA: I mean, it makes it</p> <p>9 terrible to farm.</p> <p>10 MR. ABERCROMBIE: Well, and that's -- you know,</p> <p>11 I think one of the things that, when you look at it, you</p> <p>12 know, the costs have continued to go up, because as you</p> <p>13 design and see more, there are things that have to be</p> <p>14 done, things that we try to do to avoid some of those</p> <p>15 situations.</p> <p>16 BOARD MEMBER TAYLOR: How loud is this thing?</p> <p>17 Is it as loud as this?</p> <p>18 MR. ABERCROMBIE: Less. Less than a freight.</p> <p>19 BOARD MEMBER TAYLOR: Less than a freight train.</p> <p>20 BOARD MEMBER UPTON: You know, it's taken them</p> <p>21 50 years for us to develop what we've got here and you're</p> <p>22 going to come in here and fix it and redo it in six</p> <p>23 months, I don't think so. But, anyway, one of the really</p> <p>24 confusing documents, and I don't know if it's still on</p> <p>25 your website, but it was on there the last time I looked,</p>	<p style="text-align: right;">Page 91</p> <p>1 can spray. I know different products have different</p> <p>2 labels and instructions on what you're supposed to do or</p> <p>3 not do. So it would be the same to follow those labels</p> <p>4 against the High-Speed rail right of way as a county</p> <p>5 road.</p> <p>6 So then the question comes up about induced</p> <p>7 wind. Well, our teams looked at it and we've looked</p> <p>8 through this and, you know, I don't know how to, you</p> <p>9 know, prove it to skeptical minds, but one engineering</p> <p>10 team looked at it and did the math to determine the wind</p> <p>11 speed for the purpose of dust calculations. The other</p> <p>12 team looked at it from the idea of what wind would be</p> <p>13 induced, and they went and -- went to a German research</p> <p>14 paper specifically on train worker safety for High-Speed</p> <p>15 Rail, and got the document translated out of German, et</p> <p>16 cetera, you know, interviewed the professors that did it.</p> <p>17 Basically, they took wind measurements at three meters</p> <p>18 from the train. Those wind measurements -- you know, put</p> <p>19 it in a graph and whatnot. Essentially says at 3 meters,</p> <p>20 or 10, 12 feet from the train, your wind speed is 5 to 10</p> <p>21 percent, and I misquoted this at the Chowchilla meeting,</p> <p>22 and I corrected it with an e-mail, but I said 10 to 20</p> <p>23 percent, but it's 5 to 10 percent of the train speed. So</p> <p>24 that means at 10, 12 feet from the train, it's only</p> <p>25 blowing roughly 10 to 20 miles an hour. As you go out to</p>
<p style="text-align: right;">Page 90</p> <p>1 and it says "The indirect biological input is a quarter</p> <p>2 mile on each side of the track in ag areas." And when</p> <p>3 the ag commissioner looked at that, and I asked him "Can</p> <p>4 we spray," he just laughed. So when you say it's only a</p> <p>5 hundred-foot impact on farmers, that's not true. It's</p> <p>6 quite a bit more than that. And when you're going</p> <p>7 through at an angle and you're knocking out water systems</p> <p>8 and everything else, I mean, Sherman's march through</p> <p>9 Georgia looks like a cake walk compared to what you guys</p> <p>10 are going to do.</p> <p>11 MR. ABERCROMBIE: Well, the quarter mile is a</p> <p>12 study area. Now, I don't know exactly the paper comes</p> <p>13 out, hopefully it will be out this week, but -- and</p> <p>14 somebody sent me a Department of Pesticide regulation</p> <p>15 letter, and I -- well, I wasn't thinking we'd need it</p> <p>16 particularly at this, and I want to read it, but the</p> <p>17 paper that the agriculture working group put together</p> <p>18 with the ag commissioners is -- says, in their opinion,</p> <p>19 and they're the authority in terms of the ag</p> <p>20 commissioners, and, you know, meeting with DPR for their</p> <p>21 concurrence on it as well, they worked together, is the</p> <p>22 High-Speed Rail will be treated, in terms of regulation,</p> <p>23 no differently than any freeway or any county road or</p> <p>24 railway. So that means, you know -- and I'm not a pest</p> <p>25 guy, I'm not an applicator, so I don't know how close you</p>	<p style="text-align: right;">Page 92</p> <p>1 the right of way, and if it's a 50-foot -- if it's less</p> <p>2 than 50 foot, you know, it would be a little bit more,</p> <p>3 but if it's at a 50-foot right of way, that puts the wind</p> <p>4 speed down to 2 to 5 miles an hour or so. That's, you</p> <p>5 know, well within the peak gust averages for the meter --</p> <p>6 the weather stations, like Merced Airport and so. Now,</p> <p>7 to me, that means, you know, you're not in a position</p> <p>8 that you're going to be blowing anything that was sprayed</p> <p>9 on a field blowing it someplace else, you know, because</p> <p>10 it's not a hurricane coming through there. It's not --</p> <p>11 you know, it's no different than the ambient general</p> <p>12 things that have to be dealt with in the Valley to begin</p> <p>13 with. For somebody that's already got that to deal with</p> <p>14 because they're along UPR, it wouldn't necessarily be any</p> <p>15 different of an impact. For a place where we split</p> <p>16 property, that's a new impact, totally understand that.</p> <p>17 You got to look at them differently, because they didn't</p> <p>18 have a county road in the middle of their property and</p> <p>19 now they do. And so they have to change their practices,</p> <p>20 that's an impact that has to be looked at from the right</p> <p>21 of way standpoint in terms of compensation.</p> <p>22 BOARD CHAIRMAN MADDALENA: But you're saying</p> <p>23 drive over a county road --</p> <p>24 MR. ABERCROMBIE: I'm just talking about in</p> <p>25 terms of the pesticides and that kind of thing and what</p>

<p style="text-align: right;">Page 93</p> <p>1 the wind from the train would be.</p> <p>2 BOARD MEMBER TAYLOR: 10 feet would only be 20</p> <p>3 to 15 miles an hour?</p> <p>4 MR. ABERCROMBIE: 10 to 20 miles an hour.</p> <p>5 BOARD MEMBER TAYLOR: If you stood off of 152</p> <p>6 ten foot and a big truck came by you at 65 miles an hour,</p> <p>7 do you think the wind that would hit you is only going to</p> <p>8 be 15 miles an hour?</p> <p>9 MR. ABERCROMBIE: I don't see too many big</p> <p>10 trucks that are as aerodynamic as a train. I know it's</p> <p>11 skeptical --</p> <p>12 MR. WELCH: There are lots of trucks that are</p> <p>13 aerodynamic.</p> <p>14 BOARD MEMBER TAYLOR: I'm just saying if you</p> <p>15 stand next to a freeway --</p> <p>16 BOARD CHAIRMAN MADDALENA: He didn't make the</p> <p>17 study.</p> <p>18 MR. ABERCROMBIE: I'm telling you what the study</p> <p>19 studied.</p> <p>20 (Off the record.)</p> <p>21 BOARD CHAIRMAN MADDALENA: We need to move this</p> <p>22 thing along. If there's nothing else on this subject, we</p> <p>23 need to probably move on to air quality --</p> <p>24 MR. ABERCROMBIE: Sure.</p> <p>25 BOARD CHAIRMAN MADDALENA: -- which is</p>	<p style="text-align: right;">Page 95</p> <p>1 on the road. Now, things that are off the road, the</p> <p>2 farmers and whatnot, Melissa, you might be a little more</p> <p>3 familiar with the document than I or the technical</p> <p>4 reports that the team did or, Dick, maybe you can comment</p> <p>5 on the technical reports. I don't know how off-road</p> <p>6 trips were calculated. I mean, you look at the road</p> <p>7 trips, I mean, that's what -- they're in there. I don't</p> <p>8 know how we deal with off-road trips, that one I can't</p> <p>9 answer. And if I understand -- for every truck that</p> <p>10 Chowchilla Water District, I mean, it could be a farmer,</p> <p>11 too, that they have on the road, that's accounted for.</p> <p>12 But all they're trips that aren't on the road, I don't</p> <p>13 know if they're accounted for or not.</p> <p>14 MR. WENZEL: Right. You're right, it's a macro</p> <p>15 level.</p> <p>16 MR. ABERCROMBIE: It's an awful macro level</p> <p>17 compared to the overall picture.</p> <p>18 MR. WENZEL: I think we have to address it</p> <p>19 specifically, give it some special thinking.</p> <p>20 MR. ABERCROMBIE: And, Melissa, maybe you can</p> <p>21 comment on that for me because -- in terms of</p> <p>22 perspective, you know, from the CEQA-NEPA side it -- you</p> <p>23 know, it seems like we're down to such a fine level that</p> <p>24 it would be -- I don't even know how to phrase it, but it</p> <p>25 becomes really a speculative analysis because it's such a</p>
<p style="text-align: right;">Page 94</p> <p>1 discussion of the impacts on air quality caused by</p> <p>2 increased miles driven by Chowchilla Water District</p> <p>3 operation and maintenance vehicles due to closure of</p> <p>4 canal, pipeline, county road and plans to mitigate air</p> <p>5 quality impacts.</p> <p>6 MR. ABERCROMBIE: Our air quality analysis, I'll</p> <p>7 put it pretty simply, and I doubt, you know, that they</p> <p>8 separated out, you know, Chowchilla Water District, you</p> <p>9 know, that's too fine a detail. But in doing the road</p> <p>10 analysis, looking at the closures, looking at where the</p> <p>11 new overcrossings would be, they have to reconfigure</p> <p>12 where the trips go. I mean, that's just -- you have to</p> <p>13 look at it from a roadway impact, what you have to do to</p> <p>14 improve the roads or traffic signals or whatever. That's</p> <p>15 all done, so all the trip miles are recalculated. And in</p> <p>16 doing so, they take into account extra miles driven in</p> <p>17 their air quality analysis. I mean, trips that are off</p> <p>18 and there's trips that are -- excuse me, there's trips</p> <p>19 that are saved and then there's additional trips because</p> <p>20 of, you know, the extra rerouting.</p> <p>21 MR. WELCH: The analysis does none of that for</p> <p>22 the Chowchilla Water District, though.</p> <p>23 MR. ABERCROMBIE: That's what I said. I</p> <p>24 understand. They don't go down to that level. They look</p> <p>25 at it on a regional level and they look at what trips are</p>	<p style="text-align: right;">Page 96</p> <p>1 small percentage of the overall picture regionally.</p> <p>2 BOARD MEMBER UPTON: Let me help you out.</p> <p>3 MR. ABERCROMBIE: But, you know, I asked Melissa</p> <p>4 if she can comment on it.</p> <p>5 MR. WELCH: We're not concerned with the</p> <p>6 regional impact. I'm concerned with impact on Chowchilla</p> <p>7 Water District. I have a truck out there that's a spray</p> <p>8 rig and we're spraying weeds on the canal. It's a diesel</p> <p>9 vehicle. It has to be retrofitted for the Air Quality</p> <p>10 Control Board's specs, you're going to double the miles</p> <p>11 that it has to drive possibly, that's a major impact to</p> <p>12 the district. When I was working for Imperial Irrigation</p> <p>13 District, they had to do mileage reduction plans for air</p> <p>14 quality there. If we're going to increase the amount of</p> <p>15 miles that we're driving on dirt roads, dirt roads that</p> <p>16 we have to put sand on for air quality to keep dust down,</p> <p>17 not just for the air, but for farmers for mites.</p> <p>18 MR. ABERCROMBIE: I got you. Right. Okay.</p> <p>19 MR. WELCH: So I'm going to have to double the</p> <p>20 amount of miles on that. I'm going to have to double the</p> <p>21 amount of times I put sand on it. I'm going to have to</p> <p>22 double the amount of times I grade that road to keep it</p> <p>23 so it's not just washboarded.</p> <p>24 MR. ABERCROMBIE: Because of more trips on it.</p> <p>25 Okay. I follow you now, it took me a minute.</p>

<p style="text-align: right;">Page 97</p> <p>1 MR. WELCH: And so regionally, I don't care 2 about the region, I care about impact on Chowchilla Water 3 District and cost. 4 MR. ABERCROMBIE: Well, that kind of goes back, 5 though, to should we be building you an individual 6 overcrossing at each and every canal is really what that 7 kind of -- I mean, I guess I equated it to that. I 8 totally misunderstood this. But, you know, that goes 9 back to, okay, that ups the level of, you know, it would 10 better to provide a bigger undercrossing, if that's what 11 we do, so that that rig can get through it, rather than 12 just a pickup truck. 13 BOARD MEMBER UPTON: In addition to that, 14 although it may be a macro from your level, for the Air 15 Quality Board in the Valley it's down to the micro level. 16 Each farmer is required to fill out an air quality thing 17 on the number of trips he takes and what he's doing to 18 reduce the impact and put signs up, you can only go five 19 miles an hour, water your roads and do all that. Now if 20 we have to go around and we have to double everything, 21 you know, it doesn't make a lot of sense, because this 22 project, supposedly, is supposed to reduce air quality. 23 Well, it's not going to do that if everybody on the line 24 has to double their trips on the dirt road, so it is not 25 just a macro thing.</p>	<p style="text-align: right;">Page 99</p> <p>1 MR. ABERCROMBIE: That's per year? 2 MR. WELCH: Yeah. So there's 15,000 miles that 3 are on our dirt roads that are sanded. If you double 4 that, you double the impact on air quality. You double 5 the amount of cost for the fuel, and you've doubled the 6 amount of hours that that employee has to spend working, 7 and you need to pay him overtime or I'm going to have to 8 hire -- maybe I can't -- you know, if he's working 8 9 hours in a day and I've got to have him working 12, 14 10 hours, that's not reasonable. 11 MR. ABERCROMBIE: You wouldn't work somebody 12 that. But, you know, that goes back down to kind of what 13 I suggested is we got to get back to a map, and we talked 14 about that. Get a map that's got both of them on there, 15 you know, your canal structure and our overcrossings, and 16 then let's talk about how those trips are made and 17 calculate that out. Now, the question really is is how 18 many different variations do we do it for. And do we do 19 it now, or do we wait until we take a look at -- you 20 know, a few months from now when we settle down on what 21 actually we're going to do with these Wyes as we carry 22 them forward and if they're adjusted north, south, east, 23 west at all, curvatures or whatnot. I assume the 24 appropriate time to do that might be three or four months 25 in the future when the San Jose to Merced team targeted</p>
<p style="text-align: right;">Page 98</p> <p>1 MR. ABERCROMBIE: I -- you know, we'll have to 2 go back and I'll have to ask a question on how that's 3 looked at from that standpoint in regards to the farm 4 trips. I know that a lot of that had been looked at, but 5 how it's documented and what precisely was analyzed. You 6 know, again, it boils down to how many of those trips -- 7 extra trips have to be made. I agree. 8 BOARD MEMBER MANDALA: It's going to increase 9 the mileage by a lot, because you're closing off our 10 county roads two miles apart. If you got a ranch on both 11 sides, you might have to drive a mile all the way around. 12 You might drive two miles to get to your ranch that you 13 can see across the road. I can see my ranch on this side 14 of the road, but I got to drive clear to Robertson 15 Boulevard to go across and come back. I got some of 16 those. 17 MR. ABERCROMBIE: No, I got you. 18 BOARD MEMBER MANDALA: I can see my ranch on the 19 other side, but I'm going to have to go all the way 20 around. I'm going to have to send my tractors all the 21 way around. I think there's a lot of people in my area 22 are going to be that way. 23 MR. WELCH: So we have a typical ditch tender 24 truck that runs anywhere from 25 to 30,000 miles, at 25 least half of that is on unimproved -- our canal banks.</p>	<p style="text-align: right;">Page 100</p> <p>1 it for June that we do a supplemental type analysis, and 2 then we can narrow down or fix -- you know, fix is a 3 relative term, because even in the design engineering 4 process you can move it a little bit -- just a little 5 bit, but what I'm talking about now is whether we're 6 moving it a quarter of a mile or a half mile one way or 7 the other. Then we can sit down and really analyze, you 8 know, to count up where are the impact, where are most of 9 your trips occurring from. And then those are the things 10 we need to target on, what's the best solution, whether 11 it's an undercrossing, overcrossing, or whatever. 12 MR. WELCH: An access road for a quarter mile. 13 MR. ABERCROMBIE: Yeah, instead of driving back 14 down the ditch bank a half mile, buying you an easement 15 so you can go out a quarter mile the other way, whatever 16 it happens to be. Or if your canal is parallel to our 17 structure and we've got an overcrossing, you know, there, 18 we certainly don't need to make you come out and go 19 around and whatnot, but that you can get through down the 20 canal bank appropriately or down that road appropriately 21 so that you're not blocked by our overcrossing. There 22 are a number of ways to look at it, hopefully. But I 23 think, Doug, the number of miles and then how that is fit 24 into the mitigation or the compensation, you know, 25 there's a variety of names that they call it, impact fee</p>

<p style="text-align: right;">Page 101</p> <p>1 that is appropriate, you know that's part of what that</p> <p>2 calculation has got to do. You just got to it of run it</p> <p>3 out.</p> <p>4 BOARD CHAIRMAN MADDALENA: If there's nothing</p> <p>5 else, we're going to move on to E, Chowchilla Water</p> <p>6 District EIR-EIS comments not covered on the subjects</p> <p>7 above.</p> <p>8 MR. WELCH: I just reserved this for my notes.</p> <p>9 I haven't written any notes on anything that I think we</p> <p>10 haven't covered, so I don't have anything.</p> <p>11 BOARD CHAIRMAN MADDALENA: If there's nothing,</p> <p>12 we'll move on to High-Speed Rail. I think you wanted to</p> <p>13 present something.</p> <p>14 MR. ABERCROMBIE: You know, you had the hand</p> <p>15 on -- I think we actually might have touched on this, but</p> <p>16 we can kind of flip through it with regards to it. You</p> <p>17 know, Kole already kind of brought it up with regards to</p> <p>18 the -- you know, one of the things I was going to mention</p> <p>19 was the LaHood trip and the chairman, you know, that they</p> <p>20 -- well, one of the -- and I'll paraphrase it, is from</p> <p>21 Dan Richards is, you know, our obligation is to make,</p> <p>22 whether it's an ag person or a business in the city,</p> <p>23 whole. And we want to do that in the most expeditious</p> <p>24 fashion possible. We don't want to waste time jerking it</p> <p>25 around. And it will do us no good to jerk it around</p>	<p style="text-align: right;">Page 103</p> <p>1 your goals, but allow us to live our lives as well."</p> <p>2 MR. ABERCROMBIE: Well, A big part of those</p> <p>3 votes were the business plan. You know, and I can't</p> <p>4 speak to the business plan, and it's really outside the</p> <p>5 frame of this particular -- you know the idea of what we</p> <p>6 need to accomplish today anyway. But it will be out, and</p> <p>7 Dan has talked about it, that he's got things he wants to</p> <p>8 accomplish with it that makes it more easy to understand</p> <p>9 and to convince them that we can -- convince people that</p> <p>10 we can accomplish our goals.</p> <p>11 BOARD MEMBER UPTON: Well, it sort of bleeds</p> <p>12 into the financial impacts on what you're talking, the</p> <p>13 next item while you're doing this. But I understand in</p> <p>14 the business plan that the operating cost projected</p> <p>15 worked out to about 10 cents per passenger mile, and yet</p> <p>16 in Europe it's like 43 cents per passenger mile, so that</p> <p>17 seems to be a little bit of a disconnect. Is that not</p> <p>18 true?</p> <p>19 MR. ABERCROMBIE: I don't know. I haven't heard</p> <p>20 that comparison, so I couldn't comment on it. So you</p> <p>21 figure -- somebody's divided it up that 10 cents versus</p> <p>22 Europe is 40 cents?</p> <p>23 BOARD MEMBER UPTON: Right.</p> <p>24 MR. ABERCROMBIE: I don't know. You know, I --</p> <p>25 per passenger mile?</p>
<p style="text-align: right;">Page 102</p> <p>1 because, from the authority's perspective, and I'm a</p> <p>2 hundred percent behind this, is the longer we drag this</p> <p>3 out, the harder it's going to be, the worse it is in</p> <p>4 terms of support, the worse it is -- because if we -- for</p> <p>5 example, when we go to start buying farm property in this</p> <p>6 first construction section, if we don't do it right,</p> <p>7 every farmer in the Valley is going to know. And if we</p> <p>8 jerk them around and we don't take care of them the way</p> <p>9 we're supposed to or the way we said we're going to be</p> <p>10 doing it, every farmer in the Valley is going to know.</p> <p>11 Now, hopefully, if we do it right, they'll admit to us</p> <p>12 doing it right and they won't be bragging about how hard</p> <p>13 it was that they got their money. And I know the</p> <p>14 negotiation they may or may not, you know, pony up what</p> <p>15 they got. But, you know, it does us no good, and this is</p> <p>16 Dan's point, it does us no good not to do it right,</p> <p>17 anyway.</p> <p>18 BOARD MEMBER UPTON: You do realize that you</p> <p>19 have Kings, Tulare, Kern and Madera County that all took</p> <p>20 a position here, and the reason is because of the way</p> <p>21 their constituents have been treated. So it's not just</p> <p>22 "Okay. We're going to do it right when we buy your</p> <p>23 property," some of these people are saying "Hey, we don't</p> <p>24 want to give up our heritage, our future for this thing.</p> <p>25 We want you to show us something that you can accomplish</p>	<p style="text-align: right;">Page 104</p> <p>1 BOARD MEMBER UPTON: Yes, per passenger mile.</p> <p>2 MR. ABERCROMBIE: Now, the hard thing about that</p> <p>3 it -- you know, Kole, like I said, I haven't heard</p> <p>4 numbers, so I can't say, you know, when you do that are</p> <p>5 you looking at 20/20 numbers, are you looking at 20/30</p> <p>6 numbers, are you looking at 20/35 numbers, you know, in</p> <p>7 terms of how that's worked out. We have high, medium and</p> <p>8 low projections and all that, so it makes it real hard to</p> <p>9 figure it.</p> <p>10 MR. UPTON: But, see, we have an obligation to</p> <p>11 our constituents, not only to deliver water, but to</p> <p>12 maintain the financial viability of this district. For</p> <p>13 instance, two years ago, three years ago the State Water</p> <p>14 Resources Control Board decided in their wisdom they're</p> <p>15 going to just put a fee on storage water, which had never</p> <p>16 been done before, it was not authorized by the</p> <p>17 legislature, and they did it. So it cost us, what, 2 or</p> <p>18 300,000 year. We tried to fight it, you know, we're not</p> <p>19 going to fight it. So how do we know with this thing,</p> <p>20 with the financial information that's out there, that our</p> <p>21 constituents are not going to be adversely affected</p> <p>22 financially if this thing is not viable. So we have an</p> <p>23 obligation to them as well, I think, to look at this and</p> <p>24 say "Hey, wait a minute," you know.</p> <p>25 MR. ABERCROMBIE: Yeah, from the business plan</p>

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1 perspective, I agree, I just -- I would advocate that you
 2 do, you know, that everybody has an opportunity from the
 3 business plan perspective. Anyway, Page 5 I listed -- I
 4 already talked about it starting at the beginning of
 5 that, the MOU to start negotiating -- you know, some sort
 6 of contract that will outline staff time and how it's
 7 compensated for for different things that need to be done
 8 as the project moves forward. And, you know, obviously
 9 we're focusing on, you know, where we're starting first,
 10 Fresno and whatnot, but everybody, Chowchilla Water
 11 District there. Those are the two contacts. David is
 12 for the San Jose to Merced team. Ron Price is who's
 13 doing it from the project management team from the
 14 authority side trying to get this thing underway.

15 We talked a little bit about the Wye options,
 16 that was Page 6, and I think we covered that probably
 17 pretty well. I talked about that timeline, particularly
 18 the next two to four months, the idea I would really like
 19 to be able to refine what these Wyes look like, add any
 20 that is appropriate, so that they can go into the draft
 21 EIR document. Go in through the whole process, be
 22 evaluated, you know, in its entirety, you know, and on
 23 its merits.

24 I don't know if I touched that schedule, but the
 25 San Jose to Merced document draft will probably be out --

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1 late 2012 is probably a little optimistic, so it will
 2 probably be early 2013. And we want to get -- you know,
 3 they've done a lot of work already, but they've got to
 4 fold the Wye information into it and any new stuff about
 5 the Wyes into it. But that's roughly the time frame.
 6 And I've talked a little bit about the opportunities
 7 about what we can do in terms of redefining the Wyes and
 8 how that might work.

9 That takes us to 9, and we talked a little bit
 10 about that, and I won't say anything more than that.

11 BOARD MEMBER UPTON: You're on single pages and
 12 we got double pages.

13 MR. ABERCROMBIE: Oh, I'm sorry. I'm
 14 miscounting you, that's because I've got cheat notes on
 15 the bottom. Sorry, I'll start by page numbers. Hybrid
 16 map, and then we went to milestones, which should be
 17 about Page 3 for you, maybe 4, milestones, right there.

18 BOARD MEMBER TAYLOR: Page 6. 6 is the Wyes.
 19 (Off the record.)

20 MR. ABERCROMBIE: Page 4 has milestones at the
 21 top. So Page 5 was, you know, kind of outlined some of
 22 what the documentation we had from the district earlier.
 23 And Ken and Doug sound like they -- sounds like you both
 24 shared some information, and I'd like to make sure that
 25 gets updated. And we talked a little about that, like

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1 cue flows and things, and hopefully that answers that
 2 question.

3 Page 6, it was really just the map, and it was
 4 in here from the standpoint is I need a map, and I've
 5 charged the team with putting a map together like this.
 6 This out of the EIR doc, but it's got all your canals on
 7 it, it's got our alignments on it, but what's not on this
 8 map are the roads. Because then you can sit there and go
 9 "Okay. Where are your structures," so that we know where
 10 your guys are driving. We can look at the Wyes, we can
 11 look at the impacts, we can say "Okay. Well, is that
 12 formal county crossing good enough, or do we need to
 13 consider something else," and then go from there.

14 And then most of this was -- you know, the next
 15 several slides were all about the points that Doug has
 16 brought up and kind of asked me about. And if I did my
 17 job right, I answered them kind of the way some of these
 18 bullets are listed, but -- you know, in terms of how we
 19 might accommodate them. You know, there's not a lot of
 20 detail here specifically, because it was just meant to be
 21 help to be able to talk through, talk through it.

22 Let's see here. I'm going to switch documents,
 23 make sure I didn't miss anything that might down below.
 24 Because I did ask about updating the cues and that
 25 information, that was one of the talking points I had

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1 here down blow. I think we covered most things, service
 2 to constituents and so on.

3 You know, we're in a bit of an awkward spot. We
 4 will be trying to address your comments to the
 5 Merced-Fresno documents, and they'll be in the final,
 6 but, again, because you're in the Wye, you know, some of
 7 the answers aren't going to be complete, because, you
 8 know, it's being rolled over. So we will be addressing
 9 them, and some of that may very well be, you know, City
 10 of Merced, Fresno, or something kind of like that.

11 BOARD MEMBER UPTON: What's the delineation
 12 point north of Chowchilla? In other words --

13 MR. ABERCROMBIE: Their document will go all the
 14 way up to Merced.

15 BOARD MEMBER UPTON: From where?

16 MR. ABERCROMBIE: From San Jose. So it will go
 17 through the Wyes and all the way up to Merced.

18 BOARD MEMBER UPTON: I know that, but the Merced
 19 to Fresno document is split, it's from Avenue 17 into
 20 Fresno, and then don't you have a little thing from the
 21 City of Merced south to, like, Arboleda or something like
 22 that?

23 MR. ABERCROMBIE: Oh, okay. Yeah, about there.
 24 The road crossings aren't on here. Yeah, about
 25 Buchanan-Hall Road, about.

<p style="text-align: right;">Page 109</p> <p>1 BOARD MEMBER UPTON: Okay.</p> <p>2 MR. ABERCROMBIE: You know, roughly in terms of</p> <p>3 the Wye, so from about there up.</p> <p>4 BOARD MEMBER UPTON: Okay.</p> <p>5 MR. ABERCROMBIE: You know, if we were really</p> <p>6 ambitious, we could certainly look the some things</p> <p>7 farther north, but that's probably pretty well dialed in.</p> <p>8 BOARD MEMBER TAYLOR: What's the chances of this</p> <p>9 thing stopping and not being funded?</p> <p>10 MR. ABERCROMBIE: Well, my personal opinion is,</p> <p>11 you know, we'll will go through this dry spell, like most</p> <p>12 dry spells, you know, that happen occasionally when</p> <p>13 partisan politics kick in. And, you know, Dan Richard</p> <p>14 has kind of been talking a little bit about this, at some</p> <p>15 point, I don't know how he'll -- whether it will be more</p> <p>16 of a press release that he does or whatnot. He talks</p> <p>17 about his experience in BART and how federal funding came</p> <p>18 and went over his time frame, but that, you know, they</p> <p>19 still plan and you still do the work and then, you know,</p> <p>20 once the bickering gets over with, they get back to work</p> <p>21 and, you know, additional monies come. You know, that's</p> <p>22 a business plan question. I think the best way to answer</p> <p>23 it is in terms of what LaHood said when he came out here,</p> <p>24 you know, "We're behind this project. We want to see it</p> <p>25 happen. We want to see high-speed rail happen in the</p>	<p style="text-align: right;">Page 111</p> <p>1 not -- and I don't know all the set asides, but the</p> <p>2 contracts are written, or the money as we've laid it out,</p> <p>3 is for building the track and structures, not a train.</p> <p>4 Now, when we talk about independent utility and we get to</p> <p>5 that step, you remember I mentioned the idea that Amtrak</p> <p>6 could run on it or it could be additional service from</p> <p>7 Amtrak, you know, that's where, for example, the trains</p> <p>8 may come from. That's five years down the road should</p> <p>9 that happen, you know. Obviously, a lot can change in</p> <p>10 five years.</p> <p>11 BOARD MEMBER UPTON: In regards to that, do you</p> <p>12 have any agreements that allow you to work on the Union</p> <p>13 Pacific right away?</p> <p>14 MR. ABERCROMBIE: I don't think we have any</p> <p>15 formal agreements with Union Pacific or BNSF at this</p> <p>16 stage. I know that they've been doing dialogues, you</p> <p>17 know, and talking about it, you know, and how these</p> <p>18 things could come forward, but I'm not aware of any</p> <p>19 formal -- anything signed in formal agreement. There may</p> <p>20 be, you know, a formal agreement that "Yeah, we will meet</p> <p>21 and talk and cooperate," but in of "We will allow you to</p> <p>22 do this or build this over our freeway" -- or "over our</p> <p>23 railroad," I don't think anything like that exists right</p> <p>24 now, unless you know anything different, Melissa?</p> <p>25 MS. DUMOND: No, that's consistent with my</p>
<p style="text-align: right;">Page 110</p> <p>1 United States." He talked about it being, you know, just</p> <p>2 a few years ago how bipartisan transportation and</p> <p>3 high-speed rail was, and he says, you know, he expects it</p> <p>4 to happen -- you know, be that way again. Whether it</p> <p>5 will be this year, next year or three years from now,</p> <p>6 nobody necessarily knows that.</p> <p>7 BOARD MEMBER TAYLOR: Do you need further</p> <p>8 funding to even start, or do you have enough money to</p> <p>9 actually drive a stake in the ground in Fresno?</p> <p>10 MR. ABERCROMBIE: No, we have money to start.</p> <p>11 That money -- you know, Melissa talked about that, we</p> <p>12 have an agreement, it's written. We have the money to</p> <p>13 build from Madera down to the outskirts of Bakersfield.</p> <p>14 BOARD MEMBER TAYLOR: And you will do that</p> <p>15 regardless if other funding is coming forthwith or not?</p> <p>16 I mean, we could actually end up with a rail from Madera</p> <p>17 to Bakersfield?</p> <p>18 MR. ABERCROMBIE: Well, that kind of goes back</p> <p>19 to the independent utility thing and so on, but, you</p> <p>20 know, that covers roughly a five-year period.</p> <p>21 BOARD MEMBER TAYLOR: Will that come with a</p> <p>22 train or just the rail?</p> <p>23 MR. ABERCROMBIE: We have -- there are some</p> <p>24 money set aside for different things. That money is</p> <p>25 meant to build the infrastructure the track, it was</p>	<p style="text-align: right;">Page 112</p> <p>1 understanding, but I do know that the dialogue is sort of</p> <p>2 ongoing with UP and BN, so it's not as if the authority</p> <p>3 is not talking with them.</p> <p>4 MR. ABERCROMBIE: Or them us, you mean?</p> <p>5 MS. DUMOND: Uh-huh.</p> <p>6 MR. ABERCROMBIE: So just in terms of draft</p> <p>7 comments, they will be formally written -- try to be</p> <p>8 answered as best as possible, knowing that, you know,</p> <p>9 most of the district and your comments are going to be</p> <p>10 reflected in the concerns about the Wye, and that is</p> <p>11 moved into the other documents.</p> <p>12 Gave you a little bit -- should be about Page 9</p> <p>13 talks about the EIR schedule, and I touched on that.</p> <p>14 Page 10, that was one of your things that you</p> <p>15 brought up, and I think we talked about that. You've</p> <p>16 asked a couple of the FOIA questions, and I have a little</p> <p>17 bit of homework on that with regards to the seven pages,</p> <p>18 or whatever.</p> <p>19 BOARD MEMBER UPTON: Okay.</p> <p>20 MR. ABERCROMBIE: So that would be my</p> <p>21 presentation. We did cover most of it, so I appreciate</p> <p>22 that, but giving me the opportunity to flip through it</p> <p>23 too. You know, I think -- oh, look what I got on the</p> <p>24 back of my -- I thought I had printed some of these,</p> <p>25 though it really didn't -- it didn't particularly up at</p>

<p style="text-align: right;">Page 113</p> <p>1 this point, I had a couple of cross-sections on the back 2 of my document where it showed typical type county road 3 overcrossings, which have two 12-foot lanes, 8-foot 4 shoulders and a 5-foot sidewalk at this point in time. 5 So, you know, that's 20 foot each way, essentially. So 6 in terms of farm equipment, I think that was what I was 7 thinking about when I printed this up. The other thing 8 that it does show here on one of -- this document is kind 9 of the way they're staged, and I don't recall how the 10 county had responded to it, the idea that we'd build the 11 road off to the side and then close the other one, or 12 whether they want us to shoo-fly the road and then build 13 the other. Different counties have approached it a 14 little bit different, but the idea is the county roads 15 would be -- for the most part, remain open while 16 construction is going on. Now, we can certainly work 17 with the counties to propose that maybe it's every other 18 one or -- you know, so that we're not -- we can't tear up 19 and eliminate all the east-west or north-south crossings 20 at one time, that has to be thoughtfully staged out. 21 So, Melissa, FRA, is there anything you want to 22 add? 23 MS. DUMOND: This is Melissa. I did want to 24 thank you again for allowing us to meet with you at your 25 board meeting. I think this has been pretty productive.</p>	<p style="text-align: right;">Page 115</p> <p>1 reason is important, it's not insignificant, because the 2 Chowchilla Water District, if you didn't have the water 3 and you didn't have this very sophisticated delivery 4 system, you wouldn't have a community and you wouldn't 5 have a farming industry, which is both a community*CHX. 6 So they really are an integral part of the backbone of 7 the Central Valley. And so the issues -- you know, there 8 are some pretty serious issues I think that should have 9 been taken into account, should have been made in the 10 selection of alternatives. And even that's just kind of 11 a big hurdle at this point, because how do you go back 12 and redo the draft environmental impact statement without 13 doing a supplement to incorporate those concerns. So 14 I'll just lay that out there so that everybody is aware 15 of that, but that's still one of the concerns. 16 MS. DUMOND: Margaret, can I ask, this is 17 Melissa Dumond, did the Chowchilla Water District submit 18 comments on the board's alternative analysis process? 19 MS. BYFIELD: I don't know, you have to ask 20 Chowchilla Water District. 21 MR. WELCH: We submitted comments on the Merced 22 to Fresno draft EIR-EIS. 23 MS. DUMOND: Okay. All right. 24 MS. BYFIELD: The alternative analysis, when did 25 that come out? What year did that come out?</p>
<p style="text-align: right;">Page 114</p> <p>1 I would just encourage the opportunities going forward to 2 meet and discuss the project and share information to 3 ensure that we have the appropriate information included 4 in the environmental analysis and your concerns are -- so 5 I don't know whether the board meeting is always the best 6 opportunity to do that or if we can talk next step for 7 the next opportunity to discuss this with you. 8 BOARD MEMBER UPTON: We're part of the 9 coordination process, so that's the way we prefer to do 10 business. I was wondering, Margaret, do you have 11 anything you want to add, you or Dan? 12 MS. BYFIELD: I'm not sure people can hear me 13 real well. 14 MR. UPTON: We're close enough now, so go ahead, 15 talk loud. 16 MS. BYFIELD: No, I think it's very good, that 17 the FRA wants to continue the conversation, that's very 18 good. Originally one of the things I wanted to say is 19 that one of the primary concerns is that the issues that 20 are being discussed here today are things that really 21 should have been taken into account early on in the 22 process, so that they could have had help in determining 23 what the alternatives are. I think that the problem at 24 this time is just simply that a lot of decisions have 25 been made without considering this information. And the</p>	<p style="text-align: right;">Page 116</p> <p>1 MS. DUMOND: Jeff, do you remember the date on 2 the AA? 3 MR. ABERCROMBIE: No, I would have to defer to 4 Dick, because we've had multiple ones over the time 5 period. Do you know what our -- your AA's and your 6 supplemental AA's were over the last couple of years for 7 Merced-Fresno? 8 MR. WENZEL: The AA, I believe, was wrapped up 9 in spring, the fall -- the winter, I think it was like 10 2010, December. It was like 2009-2010, and then the 11 supplemental came in by the summertime of 2010. 12 MR. ABERCROMBIE: You've only had one AA in -- 13 MR. WENZEL: We had one AA and then we had a 14 supplemental. 15 MR. ABERCROMBIE: One supplemental? 16 MR. WENZEL: Right. So I think they were, like, 17 winter and then six months later were the supplemental. 18 MR. WELCH: Well, December 17th, 2009, I wrote a 19 letter to Carey Bowen, and in that it analyzed the 20 impacts of different alternatives, A-1, A-2 and A-3, on 21 the Chowchilla Water District. 22 MR. ABERCROMBIE: Could you give me the date 23 again, Doug? 24 MR. WELCH: December 17th, 2009. It addressed 25 the amount of places where it crossed our facilities and</p>

<p style="text-align: right;">Page 117</p> <p>1 the needs for overpasses, underpasses.</p> <p>2 MR. ABERCROMBIE: That looks like that times --</p> <p>3 MR. WELCH: Replacement of our pipelines,</p> <p>4 replacement of our canals.</p> <p>5 MR. ABERCROMBIE: I'd have to put it in timeline</p> <p>6 with the AA's and whatnot, but that looks, either just</p> <p>7 before or in between some of the conversations you had</p> <p>8 with Ken, Ken Swanson, to be clear, instead of Ken, the</p> <p>9 guy no longer there.</p> <p>10 Anything else, Melissa?</p> <p>11 MS. DUMOND: No. Just, you know, thank you</p> <p>12 again. It was a productive working session, we</p> <p>13 appreciate your time, and thank you very much.</p> <p>14 MS. HUMPHREY: Just a quick clarifying question.</p> <p>15 So did I hear correctly that a special board meeting</p> <p>16 setting is the best way to meet and discuss --</p> <p>17 BOARD MEMBER UPTON: Yes.</p> <p>18 MS. HUMPHREY: Do you guys have a district</p> <p>19 engineer or somebody that --</p> <p>20 BOARD MEMBER UPTON: He's right here, Doug</p> <p>21 Welch.</p> <p>22 MR. ABERCROMBIE: He's not an engineer, but he</p> <p>23 knows everything we need to know.</p> <p>24 BOARD MEMBER UPTON: He'll refer you to whoever</p> <p>25 you need to --</p>	<p style="text-align: right;">Page 119</p> <p>1 to establish those Wyes. So what I would suggest is that</p> <p>2 we now have this map here, and that's information we</p> <p>3 didn't have, we can use that to inform ourselves about</p> <p>4 impacts that we previously maybe didn't know about and</p> <p>5 maybe tweak these alignments.</p> <p>6 MR. WELCH: This map, you guys got -- you have</p> <p>7 an auto CAD drawing of our --</p> <p>8 MR. ABERCROMBIE: He doesn't have it, the San</p> <p>9 Jose to Merced team.</p> <p>10 MR. WELCH: No, that's who I gave it to, I'm</p> <p>11 pretty sure. We gave them all of our canals and</p> <p>12 actually --</p> <p>13 MR. ABERCROMBIE: The Merced to Fresno team has</p> <p>14 had it back in 2000, whatever, and I think maybe the last</p> <p>15 time we were here we actually took one with us.</p> <p>16 MR. WELCH: We gave to Parsons a copy of -- we</p> <p>17 scanned a whole bunch of our --</p> <p>18 MR. LEVERENE: We need to go back and look at</p> <p>19 that again and make sure that if there's any opportunity</p> <p>20 to avoid impacts that we didn't see before, even though</p> <p>21 it might have been in front of us, we do that. The other</p> <p>22 thing is, though, if there are additional alignments that</p> <p>23 crop up, and I would certainly hope there's not many,</p> <p>24 because we can only study so many, it would be good to</p> <p>25 get input from CWD for the new alignments that we would</p>
<p style="text-align: right;">Page 118</p> <p>1 MR. WELCH: We have an engineering firm of</p> <p>2 Parsons, Pecchenino & Fremming --</p> <p>3 BOARD MEMBER UPTON: Another Parsons, unrelated.</p> <p>4 MR. WELCH: -- that we utilize for our</p> <p>5 engineering.</p> <p>6 MR. ABERCROMBIE: That might be -- well, I guess</p> <p>7 that's the next question. What do we want to tackle</p> <p>8 next? I mean, I threw out the idea of overlaying all the</p> <p>9 maps and starting from there. You tell me what you would</p> <p>10 like to do and let's see what we can put together.</p> <p>11 MR. LEVERENE: Let's think about the timeline,</p> <p>12 because the beginning of next month we have to start</p> <p>13 working on our supplemental AA, and to do that, we have</p> <p>14 to know what alignments are we going to be studying. We</p> <p>15 already have three, which we're going to have to study</p> <p>16 those. We can tweak them a little bit one way or the</p> <p>17 other over the next couple of weeks, but by the first of</p> <p>18 March we pretty well need to know what our footprints are</p> <p>19 going to be. Now, there's an opportunity to look at some</p> <p>20 alternative alignments as well. Chowchilla has suggested</p> <p>21 a couple of alternative alignments, which I'm not sure</p> <p>22 whether they're going to survive over the next couple of</p> <p>23 weeks or not, but we need to establish the alternative.</p> <p>24 We won't be able to do a lot of analysis between now and</p> <p>25 then if we are to meet the timeline that we've been given</p>	<p style="text-align: right;">Page 120</p> <p>1 consider. It's a short period of time, but we might, to</p> <p>2 some degree, avoid some of the problems we had the last</p> <p>3 time.</p> <p>4 MR. WELCH: Can I ask a question on that, on the</p> <p>5 Wyes? Is there a reason that -- I realize that you have</p> <p>6 a criteria that's there that says you have to get from</p> <p>7 San Francisco to L.A. in a certain amount of time, but</p> <p>8 for the Wyes turning from San Jose to -- going back up to</p> <p>9 Merced and Sacramento, is there a reason you couldn't</p> <p>10 slow the train down a little and compress those Wyes</p> <p>11 instead of having them so big and long?</p> <p>12 MR. ABERCROMBIE: The ones that turn north we've</p> <p>13 tried to do that to. The one that goes from north to</p> <p>14 west or west to south or east to south, I mean the same</p> <p>15 way, depending on the train, we are so close to our 2</p> <p>16 hours 40 minutes right now, we've done the best we can.</p> <p>17 MR. WELCH: I'm not talking about --</p> <p>18 MR. ABERCROMBIE: We have. We've moved -- we've</p> <p>19 looked at a couple of those that are all the way down to,</p> <p>20 like, 150, which are significant.</p> <p>21 MR. WENZEL: We've gone down to 150, and we</p> <p>22 flirted with 120, but you have to draw the line</p> <p>23 somewhere, because otherwise you're putting a lot of</p> <p>24 money --</p> <p>25 MR. ABERCROMBIE: Doug, I appreciate it. We've</p>

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1 done that. We can talk about that a little more in terms
 2 of where they are and where they aren't, because where we
 3 have that flexibility it is appropriate to exercise it.
 4 MR. WENZEL: We took advantage of it in trying
 5 to lay down where we do have one of those Wyes.
 6 MR. WELCH: It's apparent that there's a
 7 difference in the radius on some of the others.
 8 MR. ABERCROMBIE: On some of them, yeah. What
 9 David talked about in terms of doing that, you know, I
 10 threw out the idea of Road 13. We got into, at break, a
 11 little bit of discussion about 152. And 152, as it
 12 presently stands, is 450 feet to the south of 152. I
 13 don't like it, I've got to get to county and Caltrans --
 14 to -- I'm working on it. South side.
 15 MR. WELCH: Can you explain the 450 feet, why it
 16 can't be 200? I mean, I've never understood that, other
 17 than you don't want to build an overpass over the Highway
 18 152 cross-over.
 19 MR. ABERCROMBIE: I will make a quick sketch of
 20 what Caltrans is -- what they call their L-9 interchange,
 21 and Caltrans' L-9 interchange puts us at about 450 feet.
 22 Their interchange for 152 -- and L-9 is modified diamond
 23 interchange, meaning you've got an on and off ramp that
 24 looks like a diamond, but it also, to increase capacity,
 25 how many vehicles you can put through it, they have a

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1 loop ramp, so that you eliminate the left turns. So in
 2 each of these corners you have a loop ramp. If those
 3 weren't there, you could shrink that in and you could be
 4 closer, but this is what the freeway agreement calls for,
 5 and that puts us out here. And they have about --
 6 there's -- if I got the number right, there's
 7 approximately nine of these, nine interchanges called for
 8 between 59 and including 59 and 99. To swing this out
 9 like they did at Fairmead, you basically have to go back
 10 almost a mile, not quite, but almost a mile and if you
 11 were to try and -- so that you could be closer, what you
 12 end up doing is you have to swing 152 out and back in,
 13 and then try and build that, you know, that interchange
 14 still and, you know, obviously that impacts farm land
 15 too. If we have to rebuild almost a mile for every
 16 interchange, now we've essentially rebuilt all of 152.
 17 And, you know, trying to be fiduciary about it, there's
 18 trade-offs to that. The county has said -- let me
 19 rephrase that. I've had county supervisors tell me they
 20 don't need all these or they could modify these, but
 21 we're sitting outside as a third party and we need the
 22 county and Caltrans to kind of spur this long. I'm
 23 trying to spur this along, you know, it's a political hot
 24 potato, sometimes people don't like to be involved in
 25 political hot potatoes, and so it hasn't come to

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1 fruition. To be closer we need this freeway -- you know,
 2 bottom line is to be closer we need this freeway
 3 agreement modified.
 4 The other discussion about this, I'll bring up
 5 in terms of 152, is we don't like being on the south
 6 side. That's where we did it, because we had already
 7 studied some of that, because when the San Jose to Merced
 8 team had looked at it, they came along 152 and they swung
 9 out to 21. And so when we added the full 152, they just
 10 kept that same alignment, you know, on straight out, but
 11 that was on the south side of 152, and that's why we
 12 picked the south side. It would make more sense for the
 13 authority infrastructure-wise not to try and do this and
 14 have to build all the elevated structures that we have to
 15 build to be on the south side. It would be better to
 16 come in from Henry Miller and then come on into the north
 17 side of 152.
 18 MR. WELCH: So why don't you build a high-speed
 19 rail on the northern lines, and then just build another
 20 set of lanes on the south of 152. Run the high-speed
 21 rail on the east-west, the northern lanes.
 22 MR. ABERCROMBIE: You still have these types of
 23 problem. You know, I'd have to defer to the road crew,
 24 and I'd have to think about this a little bit before I
 25 pass judgment. I think I understand what you're saying,

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1 then you would only rebuilding one piece of it. I got to
 2 look at the right of way and a few other things, because
 3 right now -- I don't think we could build them just on
 4 the north -- like I said, I have to look at the north --
 5 I'm not sure we can just build them, for example, on the
 6 north side.
 7 MR. WELCH: Or the south side or in the center.
 8 MR. ABERCROMBIE: In those lanes, because right
 9 now there's essentially no median there, there's 15, 20
 10 feet max, basically enough for the turn pockets.
 11 MR. WELCH: I'm not saying that you wouldn't
 12 have to acquire another hundred --
 13 MR. ABERCROMBIE: You would have to push it all
 14 the way out this way. What we would be put in a position
 15 to do is we would end up having to widen 152 out enough
 16 to have a hundred foot or 60 foot plus median, and we end
 17 up rebuilding the whole thing again, and that's back to
 18 rebuilding the whole thing again. You couldn't be on the
 19 north side of it, because you're going to interfere with
 20 the ramps, and it puts you -- it would force you to be in
 21 the median, and then we're back to rebuilding pretty much
 22 the whole piece of 152. I'm speaking off the top of my
 23 head, because I know we looked at this, and it's been
 24 months and months and months since I looked at it. But
 25 the question is a valid one, and those are the things

<p style="text-align: right;">Page 125</p> <p>1 that, I guess, I'm getting at in terms of looking and 2 talking about what refinements we can put onto these 3 Wykes. You know, that's what David was referring to, you 4 know, he'd like to see them in three or four weeks, but I 5 know we're not going to -- 6 MR. LEVERENE: To meet that schedule that we've 7 been given. 8 MR. ABERCROMBIE: I understand. And his 9 schedule is what I referred to as June. I think we're 10 going to -- you know, we can survive if we're maybe in a 11 month longer, but the point is we need to get Caltrans 12 and the city together. And, you know, he can get started 13 on the ones that are there if we decide we're going to 14 tweak them a little bit. And then if there are other 15 ones that are on there, we obviously have to decide those 16 soon, too, because they all take a little bit of time. 17 MR. UPTON: We would appreciate it knowing if 18 you get something from the City of Chowchilla or from the 19 Southern Madera County Farm Bureau if they have 20 something, because neither one of them we have a lot of 21 communication with. 22 MR. ABERCROMBIE: Well, the City of Chowchilla, 23 just quickly, hasn't -- well, farther away is better, 24 obviously, to their thinking. We discussed Road 13 with 25 them, and they go "Well, you know, we could do that," you</p>	<p style="text-align: right;">Page 127</p> <p>1 there. 2 MR. WELCH: So on Road 13 -- 3 MR. ABERCROMBIE: There's challenges there, and 4 one of the problems is because of the prisons, what it 5 does is -- and maybe it's good, maybe it's bad, you know, 6 it spreads that diamond out more. And I don't like that 7 and I just -- I have a feeling that most people won't 8 like it. And the big -- one of big downsides for the 9 authority, too, is it increases the impacts, period, 10 because there's more track miles, period. 11 MR. WELCH: So on the Road 13 that you're 12 possibly looking at, it's on the east side or the west 13 side of Road 13? 14 MR. LEVERENE: Which would be better? 15 MR. ABERCROMBIE: Well, you know, somebody said 16 the county will give us the right of way, but I'll 17 believe that when I see it. The point is, we could be, 18 as David said, we could be on either. I know you've got 19 a canal, I think -- 20 BOARD MEMBER UPTON: We've also got a recharge 21 facility there. 22 MR. ABERCROMBIE: -- on the east side of Road 23 13, I believe, right? 24 BOARD MEMBER UPTON: Does that mean Fagundes 25 gets the bank facility, then?</p>
<p style="text-align: right;">Page 126</p> <p>1 know, versus "hell no." They said, "Well, if you're 2 going" -- "We can tolerate that," I'm sure they're going 3 to fight it. 4 BOARD MEMBER UPTON: You're sure about that, 5 huh? 6 MR. ABERCROMBIE: I'm just telling you what they 7 told me, whether or not that pays out, that was one 8 meeting. They also suggested pushing the east Chowchilla 9 loop out another half mile or so, so it wasn't right up 10 against the golf course. You know, I mean, we're going 11 to have to go out and try and develop that a little bit. 12 BOARD MEMBER UPTON: Put it on Vince. 13 BOARD MEMBER TAYLOR: I mean, you've actually 14 circled town and hit every piece of property I've got. 15 MR. ABERCROMBIE: You know, we have settled on 16 nothing at this point. They also, which I'm a little 17 skeptical on it, just because we -- BNSF has been 18 problematic for us all along to the north, particularly, 19 though it's not a bad idea, we just got to kind of run 20 the numbers through, is staying on the BNSF just a little 21 bit longer and then, instead of changing down at about 22 152, coming out and going from BNSF to UPR north of 23 Chowchilla about along the Chowchilla River. We're going 24 to have problems with Chowchilla River. We're going to 25 have problems with, I think, a little bit of wetlands</p>	<p style="text-align: right;">Page 128</p> <p>1 MR. WELCH: It would be better on the east side 2 as far as hitting -- 3 MR. ABERCROMBIE: It would be better on the east 4 side of 13? 5 MR. WELCH: Yes. 6 BOARD MEMBER UPTON: That was the thing, 7 Fagundes said if it goes through his property he wants 8 the maintenance facility. 9 MR. ABERCROMBIE: The maintenance facility won't 10 be decided for 18 months, 2 years, it's got to get 11 through all the EIR docs, including this one, and then it 12 will get narrowed down. 13 BOARD MEMBER TAYLOR: Well, depending on what 14 route you pick here, this site will be -- 15 MR. ABERCROMBIE: Well, let's -- let's -- let's 16 develop that just a minute, and I'm going to be about out 17 of time, but let's put it on 13. 18 MR. UPTON: I don't want to put it on 13. 19 MR. ABERCROMBIE: I know you don't, but put it 20 on 13, because that's the only place Fagundes works, or 21 24, but we know 24 is an awful crappy shot either. So 22 let's say we continue to push 152, and we make 152 -- 23 (Inaudible conversation) 24 MR. ABERCROMBIE: Well, besides the City of 25 Chowchilla, I've heard there's a number of farmers that</p>

<p style="text-align: right;">Page 129</p> <p>1 don't like that one either, but I will just say if we 2 were to try and pursue what the county has recommended, 3 the Farm Bureau has recommended go on 152, you could 4 extend that leg down to 152. Similarly, you know, though 5 it makes much less sense for us to extend that leg down 6 to, I think, 21, but all those things are possibilities. 7 Any one of them has bad sequences that -- well, has 8 impacts that have to be looked at and considered and 9 whatnot.</p> <p>10 BOARD MEMBER UPTON: Before you leave, I need to 11 bring up one thing that would be a good idea for you 12 folks to do. You sent out these things, requests for --</p> <p>13 MR. ABERCROMBIE: Requests for access.</p> <p>14 BOARD MEMBER UPTON: -- access to property, and 15 people have not sent them in or sent in refusal, and your 16 consultants pay no attention to that and come on the land 17 anyway. So the water district has taken a position, 18 you'll get a letter, you're not authorized to be on any 19 district property to access the land unless we get 20 something from the landowner saying "Yeah, it's okay, 21 these people can come on." I got to tell, you better 22 tell your consultant, that's not a really good life 23 choice to come on.</p> <p>24 MR. ABERCROMBIE: I certainly did. DeJager 25 called me, I had a conversation with him and Dick heard</p>	<p style="text-align: right;">Page 131</p> <p>1 you know. In other words, you know, cut the swath and 2 not replace any utilities. Just kind of like I said the 3 idea that before we disrupt them we've got to realign 4 them, it's the same principle. They'll get realigned 5 before we cut the swath.</p> <p>6 BOARD MEMBER MANDALA: But when you take like an 7 east-west road, whatever property it's going to, you just 8 cut the value of that property. If you don't ever build 9 it, you're sitting here with a piece of property that 10 when you go to sell it you got to tell the people the 11 high-speed rail could come through there.</p> <p>12 MR. ABERCROMBIE: And there are state laws that 13 apply to that situation for damages.</p> <p>14 BOARD MEMBER MANDALA: Okay. I'd just hate for 15 you to pick a route, and now we're sitting here with this 16 route and it never happens in 30 years, you got a piece 17 of property that ain't worth nothing.</p> <p>18 MR. ABERCROMBIE: That are state laws that cover 19 some of those situations.</p> <p>20 BOARD MEMBER TAYLOR: Once they pick a route, 21 within a year they're going to pay you your money. 22 That's what he said. That's what he said, within a 23 year you get your money. Once they pick a route, within a 24 year you get your money, so if they never do it, you got 25 your money and you're just farming the railroad property,</p>
<p style="text-align: right;">Page 130</p> <p>1 about it, didn't you, Dick?</p> <p>2 MR. WENZEL: Yes.</p> <p>3 MR. ABERCROMBIE: You know, that's horrible for 4 us and it -- in fact, Dick, I'll put you on the spot, I 5 asked you guys to update your procedures on how to avoid 6 that, and I have not seen that, so if you could --</p> <p>7 MR. WENZEL: Sure. We will definitely make sure 8 you get that.</p> <p>9 BOARD CHAIRMAN MADDALENA: Pretty much we 10 discussed F, is there anything on F that we need to 11 continue discuss on that?</p> <p>12 MR. ABERCROMBIE: Well, did we decide when we're 13 meeting again?</p> <p>14 BOARD CHAIRMAN MADDALENA: We haven't discussed 15 if the project fails, if, say, you start the project and 16 get partway and it fails, I mean --</p> <p>17 BOARD MEMBER TAYLOR: Amtrak is going to use it.</p> <p>18 MR. ABERCROMBIE: Well, you know, we have money 19 for the construction costs we have, and in that money we 20 will be doing all the utility relocation. Next step, you 21 know, when we get the next chunk of money and we build 22 this piece, you know, into Merced, same thing. You know, 23 all the money that's there for construction is going to 24 be there to do all the mitigation that is necessary so 25 that you guys operate it. We won't get halfway built,</p>	<p style="text-align: right;">Page 132</p> <p>1 correct?</p> <p>2 BOARD MEMBER MANDALA: I don't see that 3 happening if they got no money.</p> <p>4 MR. ABERCROMBIE: That would be -- that was 5 under the assumption we were moving forward. That was 6 the typical case as we would be continuing to progress. 7 Could there be the case that we have a route and we don't 8 build for five years and you don't get your money for 9 five years, possibly.</p> <p>10 BOARD MEMBER TAYLOR: You didn't mention that.</p> <p>11 MR. ABERCROMBIE: I didn't, so I'm glad you 12 clarified it for me, or he clarified it for me. Our goal 13 is, generally speaking, is to secure the right of way 14 sooner than later and to continue to move forward with 15 it. Now, on the other token, we're not interested in 16 being landlords, so there is that balance between how far 17 out do you want to buy. There is a prudent amount to 18 that and there are -- when you select a route and there 19 are provisions in state law, for example, that you need 20 to sell, we're not ready to buy your property, but you 21 can come to us and say "I need you to buy my property 22 now, because I'm liquidating my assets" for whatever 23 reason, we move forward with it at that time. So there 24 are things that protect the property owner with regards 25 to that, even though we're not wholesaling buying the</p>

<p style="text-align: right;">Page 133</p> <p>1 whole corridor at that given time.</p> <p>2 BOARD MEMBER TAYLOR: Bet you'd be easy to deal</p> <p>3 with then.</p> <p>4 MR. ABERCROMBIE: You know, our board's attitude</p> <p>5 is we're going to do it right, and they want to come at</p> <p>6 it from the standpoint of we're making people whole.</p> <p>7 BOARD MEMBER MANDALA: We'd just as soon you not</p> <p>8 pick an east-west route until you're ready to go.</p> <p>9 MR. ABERCROMBIE: Being that this is 2000 -- you</p> <p>10 know, late 2013 that we will be picking a route, you</p> <p>11 know, that's a couple of years from now, we will have a</p> <p>12 change in election, we may even have a transportation</p> <p>13 bill by then, and that will tell us a lot, but politics</p> <p>14 is politics.</p> <p>15 BOARD CHAIRMAN MADDALENA: We're going to go to</p> <p>16 No. G. Has that been taken care of, Federal Rail</p> <p>17 Administration request?</p> <p>18 BOARD MEMBER UPTON: Yeah, I think we covered</p> <p>19 that.</p> <p>20 BOARD CHAIRMAN MADDALENA: We'll go to H, is</p> <p>21 there any further discussion on anything we've missed?</p> <p>22 If there hasn't, I'd like to thank everybody for being</p> <p>23 here.</p> <p>24 MR. ABERCROMBIE: We got to do 6.</p> <p>25 BOARD CHAIRMAN MADDALENA: Okay. I can still</p>	<p style="text-align: right;">Page 135</p> <p>1 be --</p> <p>2 MR. LEVERENE: -- to determine how long we need.</p> <p>3 MR. ABERCROMBIE: -- only a few weeks away and</p> <p>4 we will get with Doug and see what we can get scheduled,</p> <p>5 and we won't commit to a day at this time, Melissa,</p> <p>6 unless you want to see a date.</p> <p>7 MS. DUMOND: I just would like to have mutual</p> <p>8 understanding of when we're going to talk next on this,</p> <p>9 and I think you guys have accomplished that, so I think</p> <p>10 what I heard was Doug mentioning you all need to</p> <p>11 coordinate off-line a little bit, and we'll set a date</p> <p>12 for the next meeting.</p> <p>13 MR. ABERCROMBIE: 10/4.</p> <p>14 BOARD CHAIRMAN MADDALENA: Okay. If there's</p> <p>15 nothing else, thank everybody for coming, and I'm going</p> <p>16 to adjourn this meeting at 12:08.</p> <p>17</p> <p>18 (Whereupon, the proceeding concluded at</p> <p>19 approximately 12:08 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 134</p> <p>1 thank everybody for being here. 6, scheduling a</p> <p>2 follow-up meeting.</p> <p>3 MR. ABERCROMBIE: You know, I think it would --</p> <p>4 well, you know, I would like to be able to sit down, and</p> <p>5 I don't know if we can have a focused discussion, if</p> <p>6 you're willing to have a focused on what the alignments</p> <p>7 are now, or any of the proposals with regards to the</p> <p>8 north side of 152, south side of 152 and what we need to</p> <p>9 do. And I'd like to, though it might be a little</p> <p>10 premature, whether it's that next meeting or the meeting</p> <p>11 thereafter, talk about the maps that are overlaid, so</p> <p>12 that we can see roadways, canals and alignment all on the</p> <p>13 same map and talk about the trip travels and things like</p> <p>14 that, what facilities, you know, are appropriate</p> <p>15 potentially to upgrade to take care of some of those</p> <p>16 things and so on.</p> <p>17 BOARD MEMBER UPTON: Why don't you talk with</p> <p>18 your people and do your due diligence and call Doug and</p> <p>19 see if we can set up the next meeting whenever you're</p> <p>20 ready.</p> <p>21 MR. ABERCROMBIE: How much time do you think</p> <p>22 you're going to need?</p> <p>23 MR. LEVERENE: For that meeting, I think we have</p> <p>24 to have some discussions with you --</p> <p>25 MR. ABERCROMBIE: Okay. Hopefully, it will</p>	<p style="text-align: right;">Page 136</p> <p>1 State of California,</p> <p>2 County of Fresno</p> <p>3</p> <p>4 I, SAMERA ALYAFAT, License No. 12933, a Certified</p> <p>5 Shorthand Reporter of the State of California, do hereby</p> <p>6 certify:</p> <p>7 That the said proceeding was taken before me as a</p> <p>8 Certified Shorthand Reporter at the said time and place</p> <p>9 and was taken down in shorthand writing by me;</p> <p>10 That the said proceeding was thereafter, under my</p> <p>11 direction, transcribed with the use of computer-assisted</p> <p>12 transcription, and that the foregoing transcript</p> <p>13 constitutes a full, true, and correct report of the</p> <p>14 proceedings which then and there took place;</p> <p>15 That I am a disinterested person to the said action.</p> <p>16 IN WITNESS WHEREOF, I have hereunto subscribed my</p> <p>17 hand this 28th day of February, 2012.</p> <p>18</p> <p>19</p> <p>20 Samera Alyafaie CSR, RPR</p> <p>21 License No. 12933</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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LAWYER'S NOTES

[illegible]

CENTRAL VALLEY REPORTERS

Attn: Mark McLaughlin

CAHSR Authority

4-30-12

770 L St. Suite 200

Sacramento CA 95814

Thank you for your written response to my general observations regarding HSR and the Biological Resources and Wetlands section of the EIS/EIR, and my specific questions and observations regarding the location of the HMF and the BNSF and other alternative routes in Madera and Merced Counties. The time you scheduled for reviewing the Final Report prior to the Fresno meeting was quite brief considering its volume, so I will try to comment generally now and more specifically later after further analysis.



Generally, the narrative and some tables do a somewhat better job of comparing routes and impacts (have more quantitative data and sometimes aspects which were neglected in the last EIS/EIR), yet the summaries regarding routes and HMF sites are nearly identical (See Table 3.7-25, Tables S-5, S-6 etc.). The redundancy in descriptive narrative on 3.7-65-69 is so common that the same paragraphs are repeated to describe diverse habitats and impacts. This problem was often "excused" under the "limited access to privately owned parcels...." or qualifiers were used such as those listed at the end of Table S-4, page S-48. Under the CEQA significance conclusions (3.7.9 155) there is no route differentiation and 41 of 41 impacts "can be all be mitigated to less than significant" (?). Using the CEQA Significance Criteria (3.6.2), I would disagree with many of these conclusions, but am certain they could not all be equally impacting or equally mitigated. All mitigation could be lessened by choosing the least impacting route (even Hwy 152, or I-5), but to do that, differentiation not homogeneity of routes and sites needed much more emphasis. How can the LEDPA be chosen without comparative criteria?

In that regard, it appears that due to an awareness of vernal pools/wetlands, connectivity corridors, numerous listed species, the Great Valley Conservation Bank etc., and written comments from local citizens, the USACE, and EPA, HSR may be reconsidering the potentially extreme mitigation required for the BNSF alternate route through the Le Grand area. However, it concerns me that it still appears to be an option per the Final report.

In your "Responses to submission 793" I noted that about 15% of the total responses dealt with the "lack of access issue", and about 25% dealt with references to mitigation measures. As stated above, I'm much more concerned about limiting mitigation through the most efficient choice of routes/sites. Some of my questions were answered well, and though responded to, some weren't answered at all, and perhaps some answers were just unclear to me. A few specific examples included the following: (793-5) I appreciated the revision of the text and I'm sure the property owner will too! (793-7) "Local roads have not been considered transportation corridors for purposes of selecting the alternative routes." This seems inconsistent with Ave.21/24. What does it mean? (793-13) Though it didn't address the specific concerns listed, I agreed with this general response and hope it is respected by CAHSR.

Thank you again for your time and consideration.

D.B. LOONEY



April 30, 2012

David Valenstein
Federal Railroad Administration
MS-20 W38-314
1200 Jersey Ave. SE
Washington, D.C.

Mark Mc Loughlin
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

RE: Final Project EIR/EIS Report
Cal. High Speed Rail – Merced to Fresno Section

Dear Messrs. Valenstein and Mc Loughlin,

We are extremely disappointed in the Authority's handling of the availability of the Final Project EIR/EIS Report as well as the time period allotted for response.

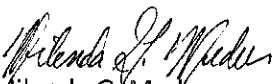
The comment chapters ranged from very difficult to impossible to download from the website. In our case, we could only access our September 15, 2011 letter (Submission 346) in the Chapter for Individual comments L thru M. Our final more detailed letter of October 10, 2011 and its response was in the Business and Organizations Chapter which, following repeated tries, could not be downloaded.

Re: your response #346 to our initial concerns in the September 15th letter, we were simply referred to General Responses. Because of the difficulty detailed above, we are unaware of your response to our Oct. 10, 2011 letter over our signatures as owners of Meders Ranch and Carleton Properties.

We are appalled by the short duration allowed for this extremely important comment period as well as the confusion of information regarding submittal dates, and address information for email and postal submission.

Unfortunately this chaotic pattern and lack of cohesive planning only strengthens our conviction that this mammoth project should be scrapped in its present form and its feasibility and fiscal accountability be completely reevaluated.

Sincerely,


Milenda G. Meders

May 2, 2012

My name is Valery Forestiere. I am here to speak on behalf of the Forestiere Underground Gardens, where my sister Lyn and I operate the historic tours.

The entire ten-acre parcel is listed on the National Register of Historic Places, a California Registered Historical Landmark, is listed on the City of Fresno's Local Registry, and receives additional protection from the Highway City Specific Plan. This property extends along the entire length of Shaw Avenue from Forestiere Street on the west to Cornelia Avenue on the east - from Shaw Avenue on the north to approximately 600 feet to the south. Portions of the Gardens remain underground on the entire parcel... other portions exist on Dale Avenue.

Once before, the State of California took the front portion of this property in order to widen Shaw Avenue. Now there is a second attempt to destroy and adversely affect the only entrance on Shaw Avenue.

The draft Findings of Effect of the California High Speed Rail Project EIR inaccurately states that there will be "No Adverse Effect" to the Forestiere Underground Gardens from long-term cumulative vibrations of the high speed rail, the increased traffic, reduced access, and years of construction of the Shaw Avenue overpass literally at our front gate. How could this flawed result come about? Only from a flawed process.

1. There have been no hearings with the National Register of Historic Places where my family have been asked to participate in the discussion of the impact of this project on the Gardens, under NEPA (National Environmental Policy Act)
2. There have been no hearings with the California State Historic Preservation Office where my family have been asked to participate in the discussion of the impact of this project on the Gardens, under CEQA (California Environmental Quality Act)
3. There have been no hearings with the City of Fresno's Historic Preservation Office where my family have been asked to participate in the discussion of the impact of this project on the Gardens.
4. There have been no hearings with the Highway City Specific Plan Committee where my family have been asked to participate in the discussion of the impact of this project on the Gardens.

There has been no "Due Process"! Your document concludes there will be no adverse impact on the Gardens, but no one can tell us what reasoning was used, which documents were reviewed, and whose expert testimony was received to justify this position.

According to some of the documentation, there will be adverse taking of a portion of the Gardens to the East of the property. There will be walls built that will hide this Local Historic treasure from the public and destroy access into the Gardens from the only public entrance from Shaw Avenue.

This EIR Effects document talks of mitigation measures, but there has been a failure to consult the very experts of this unique treasure... that is my father Rosario Ricardo Forestiere... who assisted his uncle in building and caring for this unique open-air museum.

This EIR Effects document failed in its attempt to provide proper documentation of the NEGATIVE environmental impact this project will have on the Gardens. There is only the statement of No Adverse Effect, but OOPS, if there are, we can try to mitigate the damage.

This EIR Effects document failed to perform due diligence. What about the effect on tourism or the loss of tourism due to access to the property? What about direct effect of pedestrian access to the property? What about the effect on the vegetation from exhaust emissions from drivers who will accelerate in order to drive up the overpass, not to mention the substantial traffic increase on Cornelia Avenue? What about the impact to ingress and egress into the property from Shaw Avenue?

We ask all of the bodies from all the three levels of historic preservation (local, state, and national) to come forward and conduct thorough hearings and receive expert testimony on the impact of this proposal. Failure to do so would only lead to years of litigation. We ask Mayor Swearengen to conduct hearings to discuss the negative impacts on this Fresno landmark from this project, before this project can proceed.

Quite some time is being taken to properly plan this project. Certainly an equal amount of time should be spent to properly examine the NEGATIVE impact on this irreplaceable treasure.

This property has existed since 1906. Its use and access to the property has been well documented. We annually receive visitors from all 50 states and over 80 countries world-wide. I believe I speak for the citizens of Fresno who wish to protect this one-of-a-kind historical landmark from being destroyed.

Valery Forestiere
Forestiere Underground Gardens, LLC
5021 W. Shaw Ave
Fresno, CA 93722
559.271.0734

PLEASE NOTE: The following is a complete transcript of the comments I made on Wednesday, September 21 to the panel at the CHSRA Public Hearing in Hanford, California. I was told by a CHSRA representative to slow down for their appointed court reporter. PLEASE ALSO NOTE: This speech was written and given before the October 5, 2011 press release was issued.

Good evening and welcome to Hanford. My name is Shelli Andranigian and I represent the Andranigian Family. We have lived in Laton, California for 50+ years and have also owned and farmed a 135-acre parcel of land since 1945. This "Home Place" is along the Cole Slough of the Kings River and also part of the proposed high-speed rail route.

My folks have been humanitarians. They helped Kings River Conservation District (KRCD) save the town of Laton in 1969 when our family furnished dirt to build levees to keep this "train town" from flooding. It took KRCD eight (8) years for them to bring someone to level the ground where the dirt had been excavated so our family could again farm this 30 acres of prime farm land.

My dad also farmed and saved the land of his neighbors, the Inouye Family in Kingsburg, California while they were interned during World War II.

We have two (2) properties in the proposed high-speed rail pathway – the aforementioned 135-acre "Home Place" and a 240-acre farm across and adjacent to HWY 43 by the Cole Slough of the Kings River.

Our land, like many others who farm and dairy in the Central Valley are rich and fertile ones, providing for those all over the world. This is also the busiest time of year as it is harvest season.

Page 2

California farms and dairies have the best to offer the world over. I have traveled abroad on both light rail and speed trains, so I should know!

I do have a laundry list of questions as I try to make sense out of 30,000 pages of documents in a short time frame in order to study and comment not just here in a brief three (3)-minute allotment, but more extensively by October 13th.

While I appreciate the 15 extra days to do so (comment, review and question) from 45 to 60 days -- 180 days is more necessary, realistic and fair. It is especially important for those of us in the proposed high-speed rail route to have ample time to look over and fully prepare for something that is not only impacting Californians TODAY, TOMORROW, NEXT WEEK, NEXT MONTH, NEXT YEAR AND THE YEARS FOLLOWING. BUT FOR ALL FUTURE GENERATIONS TO COME THE WORLD OVER!

I have two (2) requests. The first is to please fully consider extending our comment and review period to 180 days. The second is to properly address correspondence sent to us.

My name is not just "Owner/Occupant." It is legally "Shelli Andranigian."
Thank you!

May 2, 2012

California High-Speed Rail Authority
Public Comment

RE: GORDON SHAW PROPERTIES
HEAVY MAINTENANCE FACILITY SITE

Chair Richard and Authority Members,

Ed McIntyre, representing the Gordon Shaw Heavy Maintenance Facility Site.

The private sector group involved in the Gordon Shaw site hereby reiterate our proposal from the original Expression of Interest submitted to the Authority in January of 2010.

Specifically:

1. We hereby offer 250 acres.
2. The property is in the Berenda Industrial Tract.
3. The Hybrid alignment is adjacent to the site, using the Ave 21 alignment to San Jose.
4. The property is served by Highway 99, with off-ramps just north and south of the site.
5. The property is adjacent to and served by UPRR freight rail.
6. The site is equidistant from downtown Fresno and downtown Merced.
7. The site is in the middle of the two largest labor markets in the San Joaquin Valley.
8. The site is just south of the wye and can efficiently serve all trains in the system.
9. The site is the most benign site environmentally as indicated in the Draft Project EIR.
10. The site and the surrounding 1100 acres is currently being master planned by the County of Madera, with the HMF as the centerpiece.

Finally, the site is controlled by one person, who will, in a public private partnership, contribute up to 1 billion dollars in private capital to develop, construct, finance and lease the HMF to the Authority.

You now have an offer of private investment for the California High Speed Rail project.

Thank you.

**BOARD MEETING REPRESENTATIVES
OF THE PROPOSED HIGH SPEED RAIL
AUTHORITY MEETING @FRESNO,CA
CONVENTION CENTER/PUBLIC
MEETING/HAND CARRIED TO THE
HIGH SPEED RAIL AUTHORITY
MEETING
DELIVERED BY: ROSE ANN MARTINEZ**

**International Immigration Services
1206 G Street #101
Fresno, Ca 93706
(559)237-8383**

May 2, 2012

RE: High Speed Rail proposal: the effects upon current businesses and owners of real property on the proposed corridor.

To whom this my concern:

I am a business owner. I have been a member of the Better Business Bureau since 1993 to present. I have been self-employed since 1991 to present. I have established my business with many long hours of hard-dedicated work. From the start, I built my company by staying open to my clients seven days a week. I just found out today that your high-speed rail proposal will have a negative impact to my business and my way of life. The result we be a complete shutdown of my business, a loss of jobs and income to my employees and to the other businesses of this complex.

I will and I am now suffering the full impact on this grave news today. I will suffer a total financial loss of my business. I will lose my clients. I have established myself at this location. I will have no other source of income after the loss of my business. To re-establish my business at another location will be a great financial burden. I want you to stop this project to tear my building down. Your desire to profit from me is shameless! You think that you can just take over my location because you have a lot of money and power. This is America. I have rights. You have violated my right to continue to fully support family and myself because you like the location of my my business. You are wrong. You are stealing my location and I am totally against it.

I am now suffering severe emotional distress and anguish due to your proposing to build the high-speed rail train on my property. I cannot believe that you can just take my property. You have no right! Your engineers did not make a full study on the impact their decisions will have on businesses presently located on the land on which they propose to build the speed train. The citizens who are in favor of the speed train were not fully informed on the effects of current businesses and the full cost of building the speed train. You certainly can build your train on tracks that are above ground that would have less impact or displace current businesses. I feel you have stole my life from me. I can't work, eat or live. You are wrong! Your decisions have caused me much anguish, emotional distress and will result in loss of income, loss of my physical office, loss of clients. I have an established business with great possibility of generating

income for myself and my employees. My expenses to have my office established, where my clients can find me and come in without appointments and notices has exceeded one million dollars. My clients come from a diverse background. My clients range from laborers and farm workers to professionals that work to support their families. Many come from great distances at all times, days and never need an appointment. Many of them take or schedule time from their work and some travel great distances. Many do not have the option to take time off from their work. I wait for work to come and my clients do indeed come to see me. I do not know where to relocate my office. Your train will destroy my life as I know it. I would never be able to recover from this financial loss.

You are building a train to go nowhere! You are spending money this country does not have! It will not be operational due to the high costs to keep it operating in the future. It will cost more money each day it operates and the cost to keep it running exceeds the price tag to build it! Wake up, don't do it! Our children will not have a future due to bad decisions made in 2011-2012. This is the year we had irresponsible representatives who were sworn in under oath to represent us. They hold a position to help and protect the people who elected them into office, not rob our future and that of our children. We must save our money needed at a hands notice to defend our country against terrorist attacks. Please re-think your position on this. Please have the integrity to take a stand on this and act accordingly.

Don't support the entity that will profit and destroy my life along with every individual who will lose their home or business. You are robbing many people of their livelihoods based on an idea that will never be completed due its high cost.

I would like to meet with you. I would like to right to explain my total loss directly to you. I want an appointment with you as soon as possible. I am a phone call away. I can meet with you at your convenience. I await your call to see you as soon as possible.

Thank you,

A handwritten signature in blue ink, appearing to read "Rose Ann Martinez".

Rose Ann Martinez owner DBA: International Immigration Services.

Cc: the prez, Mr/Ms. congressperson, and all my cousins that sit on the tracks.

Kole Upton



May 2, 2012

California High Speed Rail Authority

770 L. Street, suite 800

Sacramento, CA. 95814

Re: Comments Concerning California High-Speed Train Rail Project Final EIR/EIS

Merced to Fresno Section

Presented with Oral Comments at the Board Meeting in Fresno, Same Date

Dear Members of the CHSRA Board:

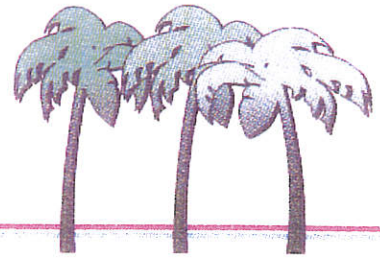
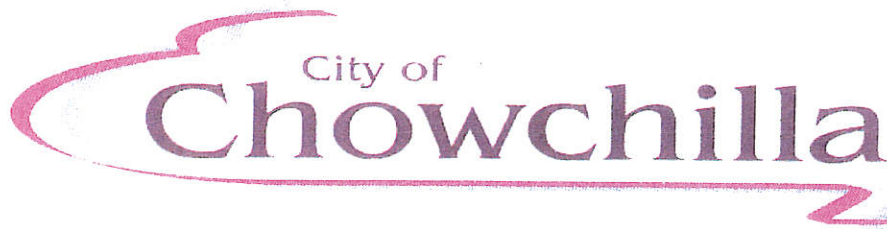
I appear before you today as an individual, and as Director of Chowchilla Water District (CWD). In the latter regard, I present to you CWD's letter of May 1, 2012, same subject as above. In addition and in the same capacity, I present to you a certified transcript of the 'Coordination' meeting held on Feb. 15, 2012, between CWD, the FRA, and representatives of the CHSRA.

As an individual, I reiterate my comments made in this EIR. The reason being that the segment affecting my property has been transferred to the Merced to San Jose group for study of the 'Wye' section. Bottom line, if the WCDO route is eliminated or changed to a location more ~~capable~~ compatible with our current infrastructure, my comments are moot.

compatible

Kole Upton

A handwritten signature in black ink, appearing to read 'Kole Upton', written over the printed name.



130 S Second Street
Civic Center Plaza
Chowchilla, CA 93610
(559) 665-8615 ~ (559) 665-7418 fax
www.ci.chowchilla.ca.us

May 2, 2012

Chairman Richard
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

RE: Merced to Fresno Section High Speed Train Project – EIR/EIS

Dear Chairman Richard:

The City of Chowchilla has provided input into Authority's process as the high-speed rail project has unfolded. We have met with your staff on the environmental review process for the Merced to Fresno Section and the deferred Wye connections. The Merced to Fresno Section Project Environmental Impact Report/Environmental Impact Statement is a second-tier document which is a refinement of the earlier Statewide Program EIR/EIS. In accordance with the California Environmental Quality Act Guidelines, this project level document should examine the project specific environmental impacts and focus primarily on the changes in the environment. The EIR/EIS should also include discussion of all phases of the project, including all environmental impacts, during both construction and operations (CEQA §15161).

We believe there is not enough analytical information available to provide meaningful public disclosure for the general public, Chowchilla City Council and the High-Speed Rail Authority to make an informed decision (CEQA §211000 & 21002.1). At this time we are asking the California High-Speed Rail Authority to temporarily postpone any approval of the Merced to Fresno Section Project Environmental Impact Report/Environmental Impact Statement, or any approval of the Project. Below are four topics which are the basis of our request.

1. The project description does not accurately reflect the proposed project. The Authority has recently published a revised Business Plan which introduces for the first time the notion of a "blended system". The original statewide project described a high-speed rail train system extending from Sacramento/San Francisco to Los Angeles. There was no contemplation of integrated connectivity with other existing regional transportation systems. It has been suggested that the new "blended system" extend those regional transportation systems in major metropolitan areas like San Jose and/or Merced, in lieu of developing the full high-speed rail system as originally contemplated. Additionally, as these established modes of transportation are brought to one central location, other existing services, such as Amtrak, would then be reduced and/or potential eliminated. It has also been widely reported that this strategy could save construction costs .

Yet, there is no discussion or analysis of direct or indirect impacts on the whole of the project of extending those existing systems incrementally or operationally (CEQA §15378). Without that analysis and discussion, we are left short of a full and transparent public policy discussion.

2. Moreover, because of the deferral of the Wye connections to another segment's environmental analysis, the City of Chowchilla is not able to engage in a comprehensive evaluation of the impact of the whole project on the City and its residents at this time. Without a clear and comprehensive project the City can not engage in a meaningful public policy discussion. Without the cumulative benefit of knowing where the Wye connections are being considered there are too many speculative variables to consider.

For example, the West Chowchilla Wye connection segment is the only proposed segment that does not follow a Section line. The proposed alignment splits Avenue 11 and Avenue 13. It is our understanding that this was done because it represents a proposed corridor, not a specific alignment. It is also reasonable to presume that some combination of West and East Chowchilla segments could be considered and selected. The result would be that the City of Chowchilla is totally encircled and divided by the project.

So how can the City understand and evaluate the potential impacts on our circulation system, housing stock, development opportunities and quality of life? How can the City come to an understanding of the cumulative impacts of the project if only one segment is being considered at this time?

3. A reasonable and feasible range of alternatives have not been evaluated. Pursuant to CEQA Guidelines §21002, a project may not be approved if there is a feasible alternative that would lessen significant environmental impacts. On several occasions City staff has proposed to HSR staff our support for the West Chowchilla alignment connecting to State Highway 152 to significantly reduce impacts to the City of Chowchilla. This environmentally superior alternative would significantly reduce impacts on local business which are vital to the City's survival. This alternative would also eliminate the need for costly modifications to SR 99 and UPRR. Noise impacts would also be reduced. Most importantly this feasible alternative could eliminate the need for constructing approximately eight (8) miles of high-speed rail track – thus reducing cost and environmental impacts.

It is a fair assertion that a significant cost savings to the project could be realized by, eliminating business relocation costs, circulation system realignment and construction costs, and elimination of eight-miles of high-speed train track.

4. Proposed mitigation measures are inadequate. As we have discussed, Chowchilla would be dramatically and adversely impacted by the project running along the UPRR/SR99 corridor through the City of Chowchilla. Also, there is no certainty as to which side of the UPRR/SR99 the high-speed rail track will straddle. There is no specific discussion of the impacts to the City if businesses have to be relocated or are lost. No discussion of economic impacts to the City either temporarily during construction or any long term impacts of business closures. No discussion of proximity to the local elementary school or potential environmental justice issues. There is no analysis or mitigation measure to address these concerns.

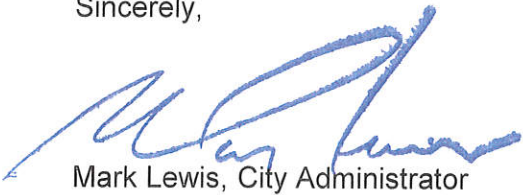
We are also concerned because we have been told by HSR staff that the project is obligated to mitigate its impacts. Practically how does that occur if there has been no

analysis? Practically, how will there be a resolution when there is a difference between project and City experts? Who mediates the difference between City and project engineering consults? Or, when the project consultants assumes 45% of drivers obey speed limits as opposed to 85%, which is an industry standard?

The Authority cannot make any decision that would be supported by substantial, relevant evidence, without answers to these questions. The current EIR/EIS is inadequate to meet the decision-making needs of the Authority or the City, and does not meet the requirements of CEQA or NEPA

In closing the City of Chowchilla is requesting postponement of the final approval of the Merced to Fresno Section Project Environmental Impact Report/Environmental Impact Statement and approval of the Project. We believe that the issues we have fairly raised can be addressed comprehensively and rather quickly. We hope that the Authority will provide direction to ensure resolution is quick and expedient. We thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Lewis', is written over a horizontal line.

Mark Lewis, City Administrator

Cc: City Council

UNION PACIFIC RAILROAD
10081 Foothills Blvd.
Roseville, California 95747

Jerry S. Wilmoth General Manager Network Infrastructure

P 916 789 6360

May 2, 2012

Mr. Thomas Fellenz, Chief Counsel
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento CA 95814

Re: Supplemental Union Pacific Railroad Comments on Merced to Fresno High Speed Train Final EIR/EIS

Dear Mr. Fellenz:

As discussed with your staff, Union Pacific Railroad Company (Union Pacific) is submitting the attached supplemental comments related to the April 2012 Merced to Fresno Final Environmental Impact Report/Statement (EIR/EIS) for the High Speed Train Project.

As also discussed with your staff, Union Pacific is not opposed in principle to the Hybrid Alternative now recommended by the staff, as that alternative has developed between the Draft EIR/EIS and Final EIR/EIS.

We also strongly agree with the conclusion in the Final EIR/EIS stating that:

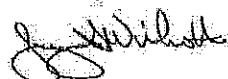
"Overall, the Hybrid Alternative . . . would avoid the greater impacts on the environment and rural communities in Merced County that would occur with the BNSF Alternative, and would avoid the greater impacts on more urban areas along the UPRR/SR 99 Alternative, such as in the City of Madera."
(Executive Summary, p. S-28)

Our October 12, 2011 comments, which are incorporated by reference, explained a number of detailed technical and other deficiencies of the Draft EIR/EIS, primarily relating to the proximity of the project alternatives to the existing Union Pacific right of way. The Final EIR/EIS does not completely address those deficiencies as explained in our attached supplemental comments.

In addition, our supplemental comments more specifically describe certain issues that the Authority must consider and resolve before proceeding with construction of the Merced to Fresno section of the project. If the recommended Hybrid Alternative is selected by the Authority and the Federal Railroad Administration, Union Pacific is committed to working with the Authority to address all issues that have been raised and may be raised with the Hybrid Alternative as the project enters its next phases, including final design, permitting and acquisition of property rights. However, if the Authority wishes to reconsider the UPRR/SR99 Alternative, the EIR/EIS must be revised and recirculated, as it does not provide a sufficient basis to evaluate the environmental consequences of the more extensive proximity and/or encroachments of the UPRR/SR99 Alternative on the Union Pacific right of way.

Replies or requests for additional information from Union Pacific should be addressed to the undersigned.

Sincerely,



Jerry Wilmoth

Attachment



May 2, 2012

**Supplemental Union Pacific Railroad Comments on
Merced to Fresno High Speed Train Project Final EIR/EIS**

1. As UP has stated in previous comments, no part of the HST system may be located on UP property and, where the HST and UP rights of way run in close proximity, a safe and operationally functional distance must be maintained between them. UP still has not received clear, concrete and reliable information about the location of the HST line in relation to the UP line. The revised text in the Final EIR/EIS and the responses to UP's comments continue to provide unclear and incomplete information on these issues.
2. UP appreciates that the Final EIR/EIS has been revised to acknowledge the need for the construction contractor to reach agreement with freight rail operators to ensure that impacts on freight service remain insignificant, p. 3.2-31. However, train delays due to construction and access across UP main line tracks by construction equipment as suggested on p. 3.2-31 must be avoided.
3. The Final EIR/EIS also adds a statement on pp. 3.2-128 - 129 regarding use of shoofly tracks to enable freight trains to bypass construction areas. The HSR staff has not shared any plans for shoofly tracks on the UP main line with UP. Use of shoofly tracks is highly disruptive to UP operations. Connection of each shoofly to the main line takes the area out of service 6-10 hours, with the same amount of time needed to shift back after completion of the work. Moreover, after a shoofly is installed, trains must reduce speed when transitioning on and off the shoofly for a minimum of 24 hours. This level of disruption is not consistent with the conclusion that impacts on freight rail operations would be insignificant.
4. Regarding permanent encroachments, UP property is still not well identified in the plans posted on the HSR Authority website, but it appears that the project encroaches on UP property at both the Merced and Fresno stations. See Plan Sheets CB 1659 -1161, CB 1659 -1661, TT-D1004-D1010, T222 6-A. There may be other encroachment locations as well, but without proper right of way lines on the plans these are impossible to identify.
5. Response 586-1 claims that the Draft EIR/EIS disclosed the potential use of UP right of way, but cites Section 2.4.2.1 which states only that the UP/SR 99 Alternative "is designed to avoid the existing UPRR operations right-of-way and active rail spurs to the greatest extent possible." In response to UP's prior comments, Response 586-1 acknowledges that unidentified "minor encroachments may ultimately be necessary and will be determined during final design" but "would be minimized to the extent possible." However, this response is inconsistent with the Transportation section of the Final EIR/EIS (p. 3.2-36) which states: "As the HST alternatives do not encroach on the freight rail corridors, they would not have a direct effect on current and anticipated freight operations." See also p. 3.2-73: "As the proposed HST service would operate on a separate right-of-way through the Merced station area, it would not create any conflicts or impacts to UPRR freight operations" and p. 3.2-110 stating the same for the Fresno station area. These inconsistent statements do not constitute sufficient disclosure or analysis for purposes of evaluating impacts of permanent encroachments on UP operations or secondary environmental impacts as discussed below.
6. As stated in UP's previous comments, a minimum 100 foot distance from UP's right of way is necessary to assure safe separation. We note that the 100 foot separation distance is acknowledged in the Final EIR/EIS, p. 3.11-24.

7. However, the Final EIR/EIS, pp. 3.11-24 – 25, indicates that less than 100 foot separation is permissible with protective barriers. Where distances are between 73 feet and 102 feet, it appears that only a swale is planned, while “separations of less than 73 feet would require a barrier or engineered wall to withstand train intrusions” (p. 3.11-25). Moreover, the Final EIR/EIS refers generally to barriers and walls but does not indicate their thickness, height or construction. A single derailment in Taiwan is illustrated in Fig. 3.11-18 on p. 3.11-26, but no engineering analysis is provided to support the conclusion that the proposed barriers will be effective or that derailed cars would not come over the top of a barrier.
8. We did not find a justification for relying on swales in the 73-102 foot range in the technical documents referenced in the Final EIR/EIS or Response 586-2. The 1994 FRA study “Safety of High-Speed Guided Ground Transportation Systems, Intrusion Barrier Design Study” mentions swales as well as berms and crash walls, but does not provide guidance on the necessary separation distance between tracks and any type of protection, or on the consequences of placing barriers at the distances shown on the HSR Authority’s plans.
9. No barriers are planned where the separation distance is at least 102 feet. The Final EIR/EIS, pp. 3.11-24 – 25, and Response 581-2 state that this assumption is based on an 89-foot freight car plus 12.5 foot allowance for the overhead catenary system mast foundation, and is supported by the “Rolling Stock and Vehicle Intrusion Protection for High-Speed Rail and Adjacent Transportation Systems” technical report. However, while this report does state that derailed cars tend to fold into an accordion or zigzag pattern, it specifically rejects the conclusion that they will remain within the bounds as assumed in the Final EIR/EIS. Instead, the report emphasizes on p. 9 that “the actual effect of a derailment is subject to a variety of site conditions including curvature and topography.” Figure 3.2-1 on p. 9 of the report clearly illustrates a derailed train with several cars that have been shoved further out by cars behind them, rather than folding into a perfect accordion pattern. The report on p. 10 states: “Figure 3.2-1 illustrates that when the railroad track bed is higher than the adjacent ground (right), the train cars typically deflect far from the track (approximately two car-lengths here).” Accordingly the assumption that no barriers will be needed anywhere that the separation distance is at least 102 feet is contradicted by the cited report, which does not support the conclusion that this separation accommodates “the maximum practical excursion of the longest U.S. freight rail car from the center of the track” as stated in the Final EIR/EIS, p. 3.11-24.
10. Response 586-2 and the Final EIR/EIS, p. 3.11-24 – 25, also rely on the American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual to justify providing barriers only where separation is less than 102 feet. We cannot find any information concerning safe clearances for HSR separation in the AREMA Manual, only a requirement for crash walls as indicated in AREMA Manual Part 2.1.5.1. UP believes this requirement refers specifically to the protection of grade separation piers when within 25 feet of an active track. While the AREMA guidance suggests that piers for HST flyovers must be carefully placed and crash wall compliant, to avoid restricting UP’s use of its right of way, this does not support the general plan to provide barriers only where separation is less than 102 feet.
11. Most of the other documents referenced in the Final EIR/EIS discussion of derailment risk and Response 586-2 are either not pertinent or out of date. Moreover, the Response states that “Neither the FRA nor an agency in the United States has defined criteria for separation requirements between high-speed rail and conventional rail systems.” In the absence of established criteria to rely on and with insufficient analysis in the Final EIR/EIS, UP again requests that the HSR Authority provide a comprehensive engineering study of barrier design and locations for review by freight rail operators.

12. In addition to safety issues, close proximity of the HST and freight rail rights of way poses problems for future maintenance work on both lines. In general, when rail projects are constructed on parallel rights of way, an access road between them is provided for maintenance and emergency response. There is no room for such an access road in the current HST design and it is unclear how the HSR Authority intends to access its facilities, for example, to maintain its intrusion detection devices on barrier walls or to respond to emergencies on the right of way. The HSR Authority should not assume that it will be able to cross UP right of way in order to access its facilities for maintenance purposes. Instead, UP recommends that the HST design include an adequate maintenance and emergency access road on its own right of way.
13. There is insufficient room for UP's maintenance and emergency access to its own right of way. On the typical section sheets posted on the HSR Authority website, HST barrier protection is located just off the UP right of way and no access is provided. For example, sheet TT-D-3004 shows clearance of only 1 foot between the UP right of way and the HST barrier wall.
14. These access constraints would seriously affect UP's ability to carry out a variety of regular maintenance activities on its right of way. Many of UP's maintenance activities are undertaken to comply with the Federal Track Safety Standards administered by the FRA. Under 49 C.F.R. Part 213, UP must comply with minimum safety requirements for railroad tracks, signal systems, roadbeds and adjacent areas, including (among other things) maintaining drainage and other water carrying facilities, keeping them free from obstruction and accommodate expected water flow, and controlling vegetation so that it does not pose fire risk, interfere with visibility, interfere with employees' trackside duties or interfere with track inspections. Additional requirements may be imposed by state and federal inspectors. In addition to operating subject to regulatory standards, UP has adopted its own standards for the safe and efficient operation of the railroad, with particular emphasis on protection of railroad employees and facilities. In areas of proximity between the UP and HST alignments, sufficient space must be maintained for such operational activities, including:
 - Regular maintenance and repairs to maintain safe working and operating conditions and protect existing facilities and structures.
 - Erosion and flood control actions, including removing eroded soils, sediment and debris from ditches, culverts and bridges;
 - Rail, tie and crossing maintenance/replacement;
 - Track undercutting and surfacing ballast;
 - Maintenance of rights-of-way roads, walkways, signals, pole lines, bridges, culverts, tributary diversions, berms, levees and fences;
 - Vegetation control (i.e., trimming or burning);
 - Fire prevention activities, including disking and plowing;
 - Excavation, grading, storage and placement of materials necessary for such work; and
 - Equipment storage and maintenance.
15. Response 586-3 states that the HSR Authority is not responsible for providing additional right of way for maintenance access to UP facilities. On the contrary, elimination of existing maintenance access constitutes a serious impact on the UP activities described above. This contradicts the conclusion in the Final EIR/EIS (pp. 3.2-36, 73, 110) that impacts on freight rail operations will be less than significant. In addition, the HSR Authority is responsible for

mitigating any secondary environmental impacts of shifting either the HST or UP right of way to provide sufficient maintenance access, as discussed below.

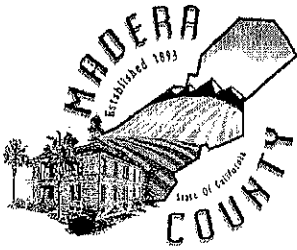
16. In addition to regular repair and improvements, such activities may need to be conducted rapidly in response to human-caused and natural disasters or imminently threatened disasters and other discrete events, such as storms, floods, fires, derailments or releases of hazardous materials that threaten employee and public safety. Actions must be taken to protect existing infrastructure such as culverts, track, rights-of-way roads and embankments, and bridges, and to repair or replace damaged facilities (such as bridge abutments or footings) to allow their continued safe use or to restore them to safe use. Such actions include repairs of flood, fire and derailment damage, removal of debris from culverts and bridges, and repair of landslides.
17. UP is in the continuous process of improving and maintaining the railroad on its right-of-way in order to maintain its network and efficiency. Allowing insufficient space could impair those activities as well. These include building new roads, track, signal systems, bridges and fences, as well as installation of culverts, drainage systems and other flood control facilities, power lines, underground utilities and fiber optic lines, and storage, grading and placement of materials used for this work.
18. The close proximity of the rights of way will also limit and curtail future freight service expansion. The Final EIR/EIS notes that "The HST alternatives would, in some locations, restrict the ability of the UPRR and BNSF to construct new spur lines for potential future customers" (p. 3.2-36) but does not acknowledge the possibility of other expansion, such as additional trackage within the UP right of way, which would be precluded by the constraints of close HST proximity. This is a serious impact, given the essential role of freight rail service in the goods movement system and its importance to the state and national economy.
19. If the HST right of way, the UP right of way and/or a highway that constrains either right of way must be shifted, to provide additional room to avoid or reduce the significant encroachment and proximity impacts discussed above, the project footprint will change from that evaluated in the Final EIR/EIS. The environmental consequences of such shifts in the project footprint have not been studied in the Final EIR/EIS and would constitute new or more severe secondary impacts. In *Town of Atherton v. California High Speed Rail Authority* (Case No. 34-2008-0000022, August 26, 2009) (*Atherton I*), the Sacramento Superior Court rejected the Final Program EIR/EIS for the Bay Area to Central Valley section for the same failure to address impacts arising from the need to avoid UP right of way. Moreover, that case concerned a Program EIR/EIS, in which a higher-level, less detailed analysis is permissible. Nevertheless, the court concluded (on pp. 5-6 of the decision):

"If Union Pacific will not allow the Authority to use its right-of-way, it appears it will be necessary for the Authority to obtain additional right-of-way outside this area, requiring the taking of property and displacement of residents and businesses. However, none of this was addressed in the FPEIR. [HSRA] argues that a programmatic EIR does not need to contain a high level of detail, and that detailed information can be deferred to a later site-specific project EIR. . . . The court concludes that the description of the alignment of the HSR tracks between San Jose and Gilroy was inadequate even for a programmatic EIR. The lack of specificity in turn results in an inadequate discussion of the impacts of the Pacheco alignment alternative on surrounding businesses and residences which may be displaced, construction impacts on the Monterey Highway, and impacts on Union Pacific's use of its right-of-way and spurs and consequently its freight operations."

The court also held that the HSR Authority erred in failing to recirculate a revised Program EIR/EIS to address land use impacts and property acquisitions after Union Pacific advised that its property was unavailable. Following the decision, the HSR Authority did revise and recirculate the Program EIR/EIS, which was again rejected in a second decision in the *Atherton I* case (November 10, 2011). The court found that the revised Program EIR/EIS still failed to adequately address traffic, noise and vibration and construction impacts from shifting and narrowing a highway, to provide sufficient room for the HST right of way between UP and the highway; see also *Town of Atherton v. California High Speed Rail Authority* (Case No. 34-2010-80000679, November 10, 2011) (*Atherton II*).

20. Similar secondary impacts are implicated by the need to avoid encroachment and maintain operationally functional distances between the HST and UP rights of way in the Merced-Fresno segment (including sufficient room for maintenance and emergency access as well as safe distances between the tracks themselves). Each analysis of an impact is premised on the HST fitting into the proposed tight corridor, with no encroachment on or displacement of UP facilities (though, as noted above, the Final EIR/EIS and Responses contain inconsistent statements on this point), but the Final EIR/EIS does not provide sufficient information to conclude that the HST alignment can succeed in maintaining an operationally functional and safe separation from the UP line and avoid all encroachments or displacements. As in the *Atherton* case, it may be necessary to shift the HST alignment, the UP right of way, and/or constraining highways, potentially intruding into other incompatible land uses or sensitive habitats, which the impact-specific analysis in the Final EIR/EIS assumes will be avoided. This is especially true for the UPRR/SR99 alternative, which is adjacent to the UP right of way for most of its length. Accordingly, the consequences of close proximity, encroachment and displacement include environmental as well as operational impacts.
21. The analysis in the Final EIR/EIS fails to address the additional construction impacts if the HSR Authority seeks to avoid new intrusions into particularly sensitive areas by relocating UP track, if UP were to agree to any such relocation.
22. For example, Final EIR/EIS Sections 3.12 through 3.15 address various land use-related impacts, assuming a particular project footprint. The supporting "Community Impact Assessment" technical report contains a detailed analysis of property acquisitions, business displacements and Environmental Justice implications for all alternatives, in locations where the Final EIR/EIS already acknowledges that its footprint will extend outside the transportation corridor. Additional acquisitions and displacements may be required if avoiding UP right of way results in any alteration of that presumed footprint. Such changes, in turn, could potentially alter the Environmental Justice conclusions. There could also be new or substantially more severe impacts to station-area land uses, agricultural lands, parks and open space, and resources protected by federal law (Department of Transportation Act section 4(f) and Land and Water Conservation Fund Act section 6(f)) into which the shifted footprint may intrude.
23. Similarly, the Final EIR/EIS does not adequately address the potential impacts to natural resources, such as sensitive species and habitat, wetlands, hydrology and water quality, that could result from shifting the HST, UP or highway alignments to avoid encroachments or unsafe

- proximity. The resources impacted will be on and adjacent to the UP right of way, as well as on and adjacent to the HST right of way, and the impacts could be direct, indirect and cumulative.
24. The issues of encroachment and proximity are also relevant to protection of natural resources in the context of emergency response. In responding to derailments or to damage to the railroad caused by floods or fires, UP employs procedures to protect and avoid wetlands and other water resources, wildlife and other biological resources, etc. The Final EIR/EIS's conclusions of insignificant impacts to freight operations and safety do not take into account those efforts to protect natural resources in such urgent circumstances. An alignment that encroaches or even too closely parallels the freight rail tracks significantly impacts and reduces UP's ability to respond in emergencies and, in the process, ameliorate the consequences of incidents for sensitive species, habitats and water quality.
 25. If any existing segments of UP track or highway must be relocated to avoid encroachment or proximity impacts, the relocation would result in construction emissions which are not included in the construction air quality analysis in Final EIR/EIS Section 3.3. In addition, the Final EIR/EIS does not address potential operational emissions impacts of a relocated mainline freight right of way, including both diesel locomotive emissions and fugitive dust impacts of right of way maintenance activities (in particular, the activities required by 49 CFR Part 213) along relocated tracks.
 26. The Final EIR/EIS does not consider the adverse air quality impacts that would result from disruption of freight rail traffic caused by construction or operation of the HST. As discussed above, the HST risks disrupt freight operations both during construction (as acknowledged in the Final EIR/EIS on p. 3.2-31) and during operations. If freight service is not available, shippers will move their goods by truck instead of by rail. Trains are four times more fuel efficient and three times cleaner than trucks on an emissions ton-per-mile basis. As a point of reference, one double-stack train can carry the same amount of cargo as 280 trucks. Accordingly, the displacement of trainloads of freight onto highways could substantially reduce the air quality benefit projected to occur from passengers switching from automobile trips to the HST.
 27. If the Hybrid Alternative as recommended by HSR staff is selected by the HSR Authority and the Federal Railroad Administration, Union Pacific is committed to working with the Authority to address the issues raised in these comments as the project enters its next phases, including final design, permitting and acquisition of property rights. However, for the UPRR/SR99 alternative, which is adjacent to the UP right of way for most of its length, the direct impacts on freight operations, and secondary impacts from shifting either right of way to avoid encroachment or functionally problematic proximity, would be substantially more severe. Accordingly, if the HSR Authority wishes to reconsider the UPRR/SR99 Alternative, the EIR/EIS must be revised and recirculated because it does not provide a sufficient basis to evaluate the environmental consequences of the more extensive proximity and encroachments or displacements of the UPRR/SR99 Alternative.



RESOURCE MANAGEMENT AGENCY PLANNING DEPARTMENT

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May 1, 2012

Mr. Tom Fellenez
Merced to Fresno Final EIR/EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

RE: Merced-Fresno Final EIR/EIS

Mr. Fellenez:

On August 15, 2011, the California High Speed Rail Authority released a Draft EIR for the Merced-Fresno section of the project for a 60 day comment period. The Madera County Board of Supervisors directed staff to send a formal comment letter on the project. The Planning Department submitted a detailed 18 page comment letter raising numerous issues on the project related to compliance with the California Environmental Quality Act (CEQA).

The California High Speed Rail Authority released a Final EIR for the Merced-Fresno section of the project on April 20, 2012. The Authority then scheduled a hearing for the certification of the Final EIR for May 3, 2012. That provides the County 14 days to review approximately 20,000 pages of material to determine if the Authority has complied with CEQA and adequately addressed the concerns raised in our October 12, 2011 comment letter on the Draft EIR.

In reviewing the Final EIR response to comments raised by Madera County, the Authority has not complied with PRC 15088 in responding to the County's comments raised in our October 12, 2011 letter. Madera County submitted 61 detailed comments specific to Madera County on the Draft EIR/EIS, of which the Authority provided 21 specific responses, and 40 generic responses. The Authority has failed under PRC 15088 (c) which states the following:

"The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice."

The Final EIR does not provide a good faith, reasoned analysis in responding to the County's 61 comments, specifically comment #605-26 has not been addressed and is therefore in violation of CEQA. Our comment letter stated the following:

"On page 2-22, the Draft EIR/EIS discusses the State Route 152 (SR152) alternative, which would maintain a distance of 400 feet from the edge of the Highway. The County is concerned of the growth-inducing effects this alternative may promote along SR 152. A 400 foot separation between both the rail right of way and the highway would create a long strip of property that would become attractive to highway commercial development. These new remnant parcels also have the potential to adversely affect SR 152 and County roads with access to SR 152. The County has been engaged in discussions with the Department of Transportation, who have also echoed the concern that the creation of remnant parcels may result in excessive growth, impacting existing intersections and interchanges along SR 152. Access requirements for the remnant parcels may result in unsafe access to and from the remnant parcels, which will adversely affect SR 152 and the County Roads that serve the Highway.

The Department of Transportation informed the County of a solution to the problem created by a rail alignment located 400 feet from SR 152. By locating the rail alignment 72-78 feet from SR 152, ample room would be allowed for the future growth of SR 152 and the remaining strip of land between the rail right of way and the Highway would not be viable for any type of development. The County agrees

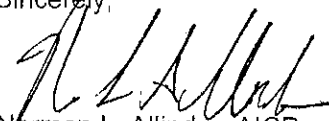
with the design solution promoted by Caltrans and believes such a design will significantly reduce potential growth inducing impacts. ”

The Authority has failed to respond in any meaningful way to this detailed comment. The Authority simply responded with a generic growth inducing statement that did not discuss any of the specific issues raised within our comment.

Madera County strongly urges the Authority to respond in accordance with PRC 15088 to our comments. In reviewing the document in its entirety it is clear that it meets the requirements under PRC 15088.5, for recirculation and therefore the Authority is required to recirculate a Draft EIR due to the significant changes that have risen from the comments received on the Draft EIR.

Please provide a written response to our letter prior to your Boards Action; once again Madera County would strongly urge the Authority Board and staff to forgo the certification of the Final EIR, in order to comply with the California Environmental Quality Act.

Sincerely,



Norman L. Allinder, AICP
Planning Director

cc: Madera County Board of Supervisors
Eric Fleming, Madera County Administrative Officer
Doug Papagni, Resource Management Agency Director
Doug Nelson, County Counsel

Argument Against High Speed Rail

I am here to articulate and call to your attention a socio-economic consequence of the High Speed Rail. Today we are considering whether taxpayers are willing to spend upwards of a projected 60 billion dollars to provide speedy transportation from cities like Fresno to other major urban destinations. A purported benefit of the HSR is that it will provide unemployed workers the access they need to obtain jobs outside of their city of residence. This assumption creates the illusion that the rail itself would expand job opportunities by affording easy access to available jobs away from one's home-base. This is a fallacy that needs to be exposed.

To elucidate this point, we need to look at the 11 to 11.9% unemployment rate, which has held firm for the last year and a half – down from the 20% unemployment rate, prevalent in many counties in California, in 2010; Yet, it is still significantly higher than all but 2 or 3 states in the nation. Therefore, are we to be proud that the rate has come down some since 2010? Of course not! It is a disgrace to us, and we should be urgently and actively involved in doing what is necessary to reverse it. We simply need to create jobs now. Similarly, are we, the taxpayers, to feel relief at the revised 68.4 billion projection? Definitely not! The reduced cost projection is an obscene amount of money because it is money diverted away from immediate, practical, and effective solutions to the problem of unemployment in our state.

If employment opportunities do not significantly improve, then the rail itself, like the infamous bridge to nowhere, will reach a dead-end. It will serve as a vehicle not to improve access to jobs, but to deliver workers to a job devoid of worker and human rights and/or union representation. Allow me to explain: This is so because the proposed HSR would, in effect, create an expanded pool of job seekers, which results in a highly competitive field. When jobs are easy to fill, exploitation by corporate entities becomes unrestrained. It is easy to exploit and underpay employees, who are faced with the threat of being replaced by applicants from all over the state of California.

I would like to bring focus to an issue specific to the SJ valley.
In addition, the central valley has notoriously high levels of unemployment among its various demographic groups. No doubt, certain employers located far from the valley would be eager to seize upon a workforce who would be willing to work for minimal pay, under any conditions. This would further place those at the lowest end of the work spectrum at the mercy of those who would import them to their own monetary advantage. Creating jobs locally is what we need to do to restore dignity to all classes of workers within California, and we need to do it now.

Furthermore, let us remember that any jobs created by the construction of the HSR are temporary at best, and more permanent opportunities are minimal compared to those that we can develop through proper funding, at the local level.

Due to cuts in education and training programs, the workers in California are likely to struggle excessively with unfair labor practices if this proposed rail goes through,

and the end result will be to fuel the current assault on unions and worker's rights in California and the country, as a whole.

I urge you to thoroughly examine the arguments I have presented in light of the socio-economic conditions in our state, and ask that you consider the motives behind those who would undermine our human potential. ~~Some have called them the 1%.~~ By whatever name we give them, these forces within our current socio-economic power structures are real, and they are intent on diverting money away from the more immediate solutions to the critical problem of "NO JOBS".

Oral Comments

by Scott Birkey
Cox, Castle & Nicholson, LLP
San Francisco, CA

High-Speed Rail Authority Meeting May 2, 2012

Good morning/afternoon, Chairman Richard, Board Members, and staff. My name is Scott Birkey, and I'm a lawyer at Cox, Castle & Nicholson, in San Francisco. I represent the organization Preserve our Heritage, or "POH." POH is a group of farmers and other agricultural interests from the Madera and Merced area of the Central Valley. Its members have lived and farmed in this area for generations, and they pride themselves on being good stewards of the land.

As members of this Board are well aware, POH has been very involved in the environmental review and planning process for the Merced to Fresno section of the high speed rail project. POH members have served on technical working groups, participated in innumerable public meetings, and offered several suggestions on how high-speed rail could work within our community.

Despite our efforts to reach an agreement on a proper alignment, today the Authority stands poised to adopt an alignment for the Merced to Fresno section that will do great harm to the agricultural lands that anchor the area's communities and provide food across the country. As our letter commenting on the Final EIR/EIS

explains in detail, we believe the document is fatally flawed for several reasons, including its failure to consider a reasonable range of alternatives that are consistent with project objectives, and its improper exclusion of analysis of the SR 152 wye.

We urge the Authority to consider alternatives that are consistent with the project's objective of using existing transportation corridors to minimize impacts to agriculture and natural resources. The EIR/EIS has failed to take this project objective seriously. The preferred alternative – the so-called “Hybrid Alternative” – may use a portion of existing transportation corridors, but its wide swing to the east of Highway 99, its proposal to implement the West Chowchilla Design Option, and its proposal to use the Avenue 21 or Avenue 24 wye approaches would disrupt hundreds of acres of important agricultural lands and infrastructure required for the agricultural industry in the region.

We also urge the Authority to delay choosing a north-south alignment for the Merced to Fresno section until it completes a full analysis of the wye options, including the SR 152 wye option. The wye connecting the San Jose to Merced section with the Merced to Fresno section will undoubtedly influence the environmental impacts of the Merced to Fresno section. Because of this critical interplay between the north/south alignment and the east/west alignment, the decision to fully analyze wye impacts at a later time is classic project chopping and a violation of CEQA and

NEPA.

For POH's members who reside in the project area, farming is more than a means to make a living and support our families; it is a way of life passed down from generation to generation, and it is an integral part of our area's economy, supplying revenue and significant support for our school, water and special districts as well as the activities that sustain our communities now and in the future. We believe the EIR/EIS is woefully inadequate in painting a proper picture of what kinds of impacts will flow from the decisions you are about to make. The Authority can and should do a better job of evaluating this alignment's environmental impacts, particularly in light of the alignment's effect on the area's farming communities. Thank you for your time.



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May 1, 2012

File No. 62043

VIA E-MAIL AND OVERNIGHT DELIVERY

David Valenstein
Federal Railroad Administration
MS-20, W38-314
1200 New Jersey Avenue, SE
Washington, DC 20590

Mark McLoughlin
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Re: California High-Speed Train: Merced to Fresno Section; Comments on
Final Project Environmental Impact Report/Environmental Impact Statement

Dear Messrs. Valenstein and McLoughlin:

On behalf of Preserve Our Heritage ("POH"), we are providing comments on the California High-Speed Train Project, Merced to Fresno Section, Final Environmental Impact Report/Environmental Impact Statement ("Final EIR/EIS") prepared by the Federal Railroad Administration ("FRA") and the California High Speed Rail Authority ("Authority") for the high-speed rail section between Merced and Fresno ("Project").¹

In summary, based on our review we believe the Final EIR/EIS fails to respond adequately to POH's comments on the Draft EIR/EIS, and thus, the environmental analysis of the Project pursuant to the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA") remains fundamentally flawed. *See* 14 Cal. Code Regs. § 15088(c) (responses to comments must be detailed and contain "good faith, reasoned analysis"); 40 C.F.R. § 1503.4 (requiring NEPA lead agencies to assess and consider "all substantive comments" received on a draft EIS); *see also Rural Land Owners Ass'n v. City Council* (1983) 143 Cal.App.3d 1013, 1020 (failure to respond to comments raising substantial environmental issues may render EIR legally inadequate). This failure to adequately respond to comments on the Draft EIR/EIS further highlights the document's legal inadequacies. We urge the Authority not to certify the Final

¹ Unless otherwise specifically noted, references to the "Authority" include both the California High Speed Rail Authority and the Federal Railroad Administration.

EIR/EIS in its current state and to recirculate a new Final EIR/EIS that responds to the significant environmental issues we identified in our October 13, 2011 letter.

I. INTRODUCTION

As described in more detail in our October 13, 2011 letter commenting on the Draft EIR/EIS, POH is an organization comprised of farmers and other agricultural interests in the Madera and Merced area of the California Central Valley. POH's members have lived and farmed in this region for generations, and they pride themselves on being good stewards of the land. Because of the high-speed rail Project's potential for significant regional and local agricultural impacts, POH has been engaged in the public review process related to the Authority's environmental analysis of high-speed rail line alternatives.

POH continues to have significant concerns regarding that analysis, and remains particularly alarmed by the fact that -- in contravention of Proposition 1A -- the Authority is considering rail alignments that would disrupt intact agricultural lands and locate rail corridors on pristine greenfields rather than use existing transportation corridors. POH is also alarmed by the Authority's decision to evaluate and determine a wye option connecting the east/west San Jose to Merced section with the north/south Merced to Fresno section. All of the wye options that are currently foreseeable should be evaluated in the Merced to Fresno EIR/EIS. POH reiterates that the Highway 152 wye option, which the Authority has deferred to the next EIR/EIS, is in fact the environmentally superior option in comparison to the other wye options, because it uses existing transportation corridors and has the fewest environmental impacts.

For good reason, the NEPA purpose and CEQA objectives for the HST system also call for protection of California's unique natural resources, including its agricultural lands, and use of existing transportation corridors. See Final EIR/EIS at p. 1-4. Identifying alternatives consistent with those objectives and purpose would not only ensure the EIR/EIS's legal adequacy, it would protect a way of life at the very core of California's history and development. As such, the EIR/EIS's failure to evaluate alternatives that are consistent with the project's CEQA objectives poses an imminent threat to our livelihood and way of life.

POH continues to believe the Avenue 21, Avenue 24, and the West Chowchilla Design Option have significantly greater environmental impacts as compared to the SR152 alternative. As noted in our comments on the Draft EIR/EIS, these options would result in particularly devastating agricultural impacts, as they would create an alignment that cuts through irrigation systems, drainage systems, power access, and roads. There would be no feasible mitigation to remedy such extensive impacts. The West Chowchilla Design Option would also cut through several environmentally sensitive areas.

As discussed in more detail below, due to its failure to adequately respond to POH's comments on the Draft EIR/EIS and remedy the significant flaws underlying those comments, the Final EIR/EIS is critically deficient. With this background, POH respectfully makes the following comments on the Final EIR/EIS.

II. COMMENTS ON FINAL EIR/EIS

A. The EIR/EIS Still Inappropriately Segments the Overall Project, Resulting in Piecemeal Environmental Analysis Masking the Project's True Environmental Impacts.

We remain significantly concerned about the Authority's intent to carve out from this EIR/EIS any real analysis of the wye options. The wye option is an important element of the north/south alignment that cannot be examined in isolation. By carving out this key element of the overall project from the analysis in the EIR/EIS, the "project" analyzed in this document is incomplete. Deferring the wye analysis for another day and another document patently disregards the mandate that a project description must include the entirety of the action, and disregards the prohibition that an agency may not piecemeal its environmental review of a project to mask the project's overall environmental impacts.

As we explained in our earlier letter, a project description should include "the whole of [the] action," and must include the entirety of the project. *See Santiago Water District v. County of Orange*, 118 Cal.App.3d 818, 829-30 (1981). A lead agency may not "piecemeal" or "segment" a project by splitting it into two or more segments for analysis in separate environmental documents. CEQA mandates that environmental considerations must not be "submerged by chopping a large project into many little ones – each with minimal potential impact on the environment – which cumulatively may have disastrous consequences." *Bozung v. Local Agency Formation Comm'n*, 13 Cal.3d 263, 283-84 (1975). NEPA also prohibits lead agencies from segmenting a project in order to avoid their NEPA obligations. *See, e.g., Thomas v. Peterson*, 753 F.2d 754 (9th Cir. 1985); *see also Save Yaak Comm. v. Block*, 840 F.2d 714 (9th Cir. 1988). Under NEPA, actions and proposals *that should be considered together* should not be separated for consideration in separate impact statements, and this principle applies in particular with respect to "connected actions" that are "closely related." 40 C.F.R. § 1508.25(a)(1).

In our comments on the Draft EIR/EIS, we questioned the propriety of the Authority's decision to pick a north-south alignment based on this EIR/EIS, while picking the wye based on the yet-to-be-published Merced to San Jose project EIR/EIS. Representing approximately one-third of the length of the Merced to Fresno section, the wye connecting the San Jose to Merced section with the Merced to Fresno section will undoubtedly influence the environmental impacts of the Merced to Fresno section. While the Draft EIR/EIS recognized this at p. 3.1-2, without explanation, the Authority removed from the Final EIR/EIS this reference to the critical interplay between wye choice and the impacts of the various north-south alignments. *See* Final EIR/EIS at pp. 3.1-1 through -2. Removing this text does not solve the problem created by the Authority's approach to environmental analysis of the Merced to Fresno section. Because of the inextricable interplay between the wye design and the environmental impacts of the north-south alignment, the decision to fully analyze wye impacts at a later time amounts to improper segmentation. *See Bozung*, 13 Cal.3d at 283-84; *Thomas*, 753 F.2d 754. These wye designs are clearly reasonably foreseeable

and therefore must be included in the EIR/EIS. See *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376. This is a fatal flaw in the EIR/EIS.

The Authority's conflicting and facially inadequate responses to our comment on this issue amplify the impropriety of the approach. See 14 Cal. Code Regs § 15088(c) (requiring responses to comments to contain "good faith, reasoned analysis"); 40 C.F.R. § 1503.4. In the specific response to our comment, the Authority stated:

because the three north/south alignment alternatives are compatible with each of the three east/west connection and wyes (Avenue 21, Avenue 24, and SR 152), the decision on the north/south alignment does not improperly constrain or pre-determine the decision on the east/west connection and wye.

(Emphasis added.) Yet, in Standard Response MF-Response-GENERAL-16, to which the specific response to our comment referred, the Authority stated

The Merced to Fresno Section EIR/EIS process will result in selection of the north-south alignment, which would narrow the wyes to those connecting to the recommended alignment; however there are other factors west of the wye that may influence the final selection of the wye. The San Jose to Merced Section EIR/EIS will fully evaluate all three wye configurations currently under consideration, including the two wye configurations that would connect to the Hybrid Alternative identified in the Merced to Fresno Section EIR/EIS and the SR 152 wye. For purposes of the Merced to Fresno Section EIR/EIS, to avoid any predetermination of the east-west and wye connection between the San Jose to Merced and Merced to Fresno sections, and thus the alignment for the San Jose to Merced Section, the Authority and FRA will defer making a decision on both the east-west connection and the SR 152 wye until completion of the San Jose to Merced Section EIR/EIS process.

(Emphasis added.) Not only is the Authority's response internally inconsistent and confusing, it evidences a lack of understanding of the fundamental issue we raised. Pre-determination of subsequent decisions to be made, while violating CEQA and NEPA on its own, does not address the other primary concern we raised, which is that the Authority cannot make a decision on the north-south alignment of the Merced to Fresno section without fully understanding the potential impacts of *each and every one* of the wye options and their interplay with the various north-south alignment alternatives. Because the Authority has not fully analyzed the wye options – including the SR 152 wye option – in the Merced to Fresno EIR/EIS, the Authority cannot make a fully informed decision regarding north-south alignment. As a result, the Authority's approach to analyzing the environmental impacts of the different wyes is classic project chopping, in violation of both CEQA and NEPA.

The response to our comment regarding project chopping also completely fails to address our concern that the Draft EIR/EIS's method of reporting environmental impacts of the wyes and north-south alignments in combination makes it exceedingly difficult, if not impossible, to tease out the environmental impacts related to the north-south sections. *See* 14 Cal. Code Regs. § 15088(c); 40 C.F.R. § 1503.4. Due to the inadequacy of the Authority's response to our comment and the underlying segmentation issue it highlights, we urge the Authority to complete environmental impact analysis for the wye options and to include that analysis in a recirculated Merced to Fresno EIR/EIS.

B. Alternatives Evaluated Still Do Not Reflect a Reasonable Range of Alternatives, and Analysis of Impacts to Agricultural Land and Communities Remains Deficient.

We remain concerned that the Authority failed to identify and evaluate a reasonable range of alternatives that satisfy CEQA and NEPA. 14 Cal. Code Regs. § 15126.6; 40 C.F.R. § 1502.14. In general, for purposes of CEQA, project alternatives are chosen in light of the objectives of the project while avoiding or substantially lessening any of the project's significant effects. *See* 14 Cal. Code Regs. § 15126.6(a), (f). For purposes of NEPA, alternatives are chosen in light of the purpose and need for the project. *See* 40 C.F.R. § 1502.13. The Authority's decision to elevate all other project objectives and goals above that of the project objective to use existing transportation corridors, as required by Proposition 1A, demonstrates that this EIR/EIS evaluates a range of alternatives that fail to satisfy CEQA and NEPA requirements. The Authority's decision to ignore this mandate will have devastating impacts on the area's agricultural economy and way of life, and it shows utter disregard for the project's important CEQA objective of providing intercity travel in a way that is sensitive to and protective of the area's agricultural resources. *See* Final EIR/EIS at p. 1-4.

The Authority should develop alternatives consistent with the project's objectives that result in fewer impacts to the region's agricultural interests and culture. For those of us who reside in the project area, farming is more than a means to make a living and support our families; it is a way of life that we pass down from generation to generation. As such, complying with CEQA and NEPA's requirements to identify a reasonable range of alternatives will not only ensure the legal adequacy of the EIR/EIS, it will protect a way of life that has been, and continues to be, central to California's agricultural economy and heritage. Doing so will undoubtedly lead to the rejection of the BNSF and Hybrid alternatives, as well as the West Chowchilla design option, and the Avenue 21 and Avenue 24 wye options. These alternatives and design options depart from existing transportation corridors and either destroy or require realignment of vital irrigation infrastructure.

C. The Project Alternative Descriptions Remain Incomplete, Misleading, and Generally Inadequate for Environmental Review.

As we discussed in our comment letter on the Draft EIR/EIS, NEPA and CEQA require that a project description must be accurate and consistent throughout the environmental document. Under CEQA, for example, "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles*, 71

Cal.App.3d 185, 193 (1977); see also *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692 (1990). This principle applies in the NEPA context, as well. See, e.g., 40 C.F.R. §§ 1502.13, 1502.14. As we noted in our comments on the Draft EIR/EIS, the document fails to meet these basic standards. A few examples of these deficiencies are identified below.

Insufficient Discussion of Impacts to Agriculture: In our comments on the Draft EIR/EIS, we noted the inadequacy of the document's analysis of impacts to farmland and farm communities. The Authority's response to our comments on these points are deficient because they fail to address specific issues we raised: for example, the failure to consider the impacts to farmland of unplanned and unwanted growth that would be triggered by the BNSF and hybrid alternative, the effects on unincorporated communities through which the BNSF alternative would pass, and the inappropriate growth and planning assumptions included in the no project alternative. See 14 Cal. Code Regs. § 15008(c); 40 C.F.R. § 1503.4.

It is troubling that the Authority chose to conclude that socioeconomic, community, and environmental justice impacts of moderate intensity for NEPA purposes are less than significant for CEQA purposes when, in other impact analyses in the EIR/EIS, NEPA impacts of moderate intensity were treated as significant CEQA impacts. See, e.g., p. 3.12-35 through -36, 3.7-50. This treatment of impacts is arbitrary and appears to be an end-run around CEQA's recirculation requirements. See 14 Cal. Code Regs. § 15088.5(a). In sum, the Authority's failure to adequately consider these impacts to farmland and farm communities renders the EIR/EIS inadequate under CEQA and NEPA and exemplifies the Authority's lack of consideration of impacts to communities in the Central Valley.

Location of Key Infrastructure: We commented on the lack of information regarding the location of key project infrastructure such as traction power substations ("TPSS"), proposed power line extensions and reconductoring necessary to meet the project's electricity requirements. In response, the Authority stated that TPSS are not shown in chapter 2 due to the scale of the graphics in that chapter and generally referred POH to Appendix 2B as the supposed location of graphics showing the location of future TPSS's. The Authority also cursorily stated that TPSS locations "are reflected in the environmental impact analyses." This response is inadequate on several levels.

First, a vague reference to an appendix that is over two hundred pages in length does not satisfy the level of detail required of a response to comments on an EIR/EIS. See 14 Cal. Code Regs. § 15088(c) (responses to comments must be detailed and contain "good faith, reasoned analysis"); 40 C.F.R. § 1503.4. Further, in our review of Appendix 2B, we were unable to find any graphics depicting the location of future TPSS's. The Authority's response that TPSS's will be "bumps in the width of the right-of-way" underscores the inadequacy of the EIR's treatment of TPSS location. As electrical substations, TPSS impacts are not merely a function of the size of their footprint and may include localized electromagnetic field and hazardous materials impacts. See *City of Santee v. County of San Diego*, 14 Cal.App.3d 1438 (1989) (complete project description required so that all project's environmental impacts can be analyzed). The EIR/EIS's failure to indicate the location of TPSS's prevents adequate environmental analysis of the project and prevents public review of that analysis. The Authority's assurance that TPSS locations are reflected in environmental

analyses is unsupported in document and does not satisfy the NEPA and CEQA requirements that an EIR/EIS must be an informational document.

Second, the response wholly fails to address our concern that the location of proposed power line extensions and reconductoring is not described. Like the location of TPSS's, the location of reconductoring and power line extension work should have been disclosed so that the public could evaluate the potential impacts from that work. Failure to disclose the location of these project components substantially degraded the EIR/EIS's informative value and prevented the completion of adequate environmental review. *See County of Inyo* 71 Cal.App.3d at 193. As a project-level EIR, this degree of detail was required.

Shifting Project Description: In our comments on the Draft EIR/EIS, we noted that chapter 2 describes the BNSF alignment as going through the communities of Sharon and Kismet, but that those communities are not mentioned throughout chapter 3's various impact analysis sections. In response, the Authority stated that although these communities were not mentioned in the impact analysis, impacts to all small communities along the various alternative routes were analyzed. This cursory response does not meet the established standards for responses to comments on an EIR. *See* 14 Cal. Code Regs. § 15088(c) ("Conclusory statements unsupported by factual information will not suffice."); 40 C.F.R. § 1503.4.

Our review of the Final EIR/EIS also suggests that this statement may not be true. For example, maps depicting the location of noise and vibration monitoring sites along the various routes do not appear to depict monitoring sites in the vicinity Sharon and Kismet. For the reader, this suggests that noise- and vibration-related impacts to residents of Sharon and Kismet could not have been accurately analyzed due to lacking noise and vibration baseline information. While this may not be the case, inconsistencies in the project description for the BNSF alignment cause the type of confusion that a consistent and precise project description is designed to avoid. *See County of Inyo*, 71 Cal.App.3d at 197.

Inaccurate Ridership Estimates: Previously, we commented on the unusually high ridership estimates included in the Draft EIR/EIS. Ridership estimates included in the Draft and Revised 2012 Business Plan emphasize the questionable nature of the estimates used in the EIR/EIS. For example, the Revised 2012 Business Plan's medium ridership scenario estimates over 7 million fewer riders than the EIR/EIS's low forecast at the same ticket price. *See* Revised Business Plan at p. 5-20. Because the EIR/EIS relies on environmental benefits that would be created by the project to justify conclusions of no significant impact for subject areas like air quality and greenhouse gas emissions, use of these high ridership estimates inaccurately minimizes the project's environmental impacts. Use of different ridership estimates in different documents published by the Authority strongly suggests that the ridership estimates included in the project description were used to minimize the project's impacts. *See San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 655 (project description should not be crafted to minimize reported environmental aspects by failing to consider reasonably foreseeable aspects of the project). Further, the response's failure to address this issue renders it inadequate. *See* 14 Cal. Code Regs. § 15088(c); 40 C.F.R. § 1503.4.

Assumptions Regarding Infill: Due to the lack of incentives encouraging infill development, we commented on the questionable nature of the Draft EIR/EIS's assumption that land development around stations would increase, thus reducing the use of automobiles by passengers attempting to arrive at a station. The Authority's response to our comment does not address our comment and instead assumes that infill development will occur. Not only does this response fail to meet CEQA and NEPA requirements, it reveals another deficiency in the project description. As with assumptions regarding ridership estimates, the EIR/EIS's use of unreasonable assumptions concerning infill development and its potential to reduce automobile use by HSR passengers render the project description fundamentally inadequate. *See San Joaquin Raptor Rescue Ctr.*, 149 Cal.App.4th at 655. A project description must set up accurate analysis of environmental impacts and cannot do so if it relies on unreasonable assumptions. *See id.*

D. The EIR/EIS Remains Deficient Because It Fails to Include Important Information, Defers the Environmental Analysis and Mitigation Related to Key Elements of the Project.

We pointed out in our comment letter that the Draft EIR/EIS improperly deferred environmental analysis and mitigation related to key elements of the project. The Final EIR/EIS does not remedy those deficiencies. An analysis of environmental impacts that can be feasibly evaluated should not be deferred to later. *See, e.g., Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, 40 Cal.4th 412 (2007) (EIR for large community plan did not adequately investigate impacts of supplying water to future stages of development); *Stanislaus Natural Heritage Project v. County of Stanislaus*, 48 Cal.App.4th 1428 (EIR for proposed multistage development project that contained no analysis of water supply impacts of later phases, and deferred analysis to later EIRs, held to be inadequate).

Similarly, it is generally inappropriate for a lead agency to defer formulation of a mitigation measure to the future. 14 Cal. Code Regs. § 15126.4(a)(1)(B). For example, mitigation measures calling for a mitigation plan to be devised based on future studies are legally inadequate if they do not describe the nature of the actions expected to be incorporated in the plan. *See San Joaquin Raptor Rescue Ctr. v. County of Merced*, 149 Cal.App.4th 645 (2007) (rejected mitigation measure calling for future surveys for special status species and development of undefined habitat management plan in response to surveys); *Endangered Habitats League v. County of Orange*, 131 Cal.App.4th 777 (2005) (rejecting mitigation measure requiring submission of acoustical analysis and approval of mitigation measures recommended by analysis because no mitigation criteria or potential mitigation measures were identified).

In our comments on the Draft EIR/EIS, we noted that the document failed to provide data in support of its conclusions and buried relevant data in technical appendices. The Final EIR/EIS fails to remedy this issue, and the Authority continues to assume that inclusion of information in appendices is sufficient for the purposes of NEPA and CEQA. That assumption is wrong. As stated in the CEQA guidelines, and EIR *shall* include summarized technical data and similar relevant information sufficient to allow full assessment of environmental impacts. *See* 14 Cal. Code Regs. § 15147. The EIR/EIS does not do this.

In our comments on the Draft EIR/EIS, we also noted a number of examples where the document improperly deferred the environmental analysis and mitigation related to key elements of the Project, in violation of the principles identified above. The Authority's responses to these examples are woefully inadequate.

Staging Areas and Batch Plants: We noted that the Draft EIR/EIS failed to indicate the size and location of construction staging areas and batch plants and that, as a project-level EIR/EIS, the document was required to include such detail in its analysis. In response, the Authority merely stated that location of staging areas and batch plants is not yet known but are expected to be located within the project area analyzed in the EIR/EIS. This response fails to comply with the requirement that responses to comments provide detailed, good-faith, reasoned analysis. See 14 Cal. Code Regs. § 15088(c); 40 C.F.R. § 1503.4. Not only is location an important factor in the magnitude of potential environmental impacts, but size of the staging areas is also key. The response's failure to address the issues we raised in our comment renders it inadequate. See 14 Cal. Code Regs. § 15088(c); 40 C.F.R. § 1503.4

Further Studies Called for by the Draft EIR/EIS: In response to our concern that the Draft EIR/EIS identified the need for further studies of traffic and cultural resource impacts, the Authority stated that construction of project elements outside of the project APE would require additional studies consistent with the requirements of the project's Section 106 MOA. This response emphasizes the EIR/EIS's inappropriate deferral of environmental analysis and showcases the potential harm caused by the failure to provide a consistent, sufficiently detailed project description. As with other lacking elements of the project description, the EIR/EIS's failure to identify the location of key project components prevents a full analysis of the project's environmental impacts, ensures underestimation of those impacts, and necessitates later environmental analysis, after the EIR/EIS certification and project approval. This violates CEQA and NEPA. See, e.g., *Vineyard Area Citizens for Responsible Growth*, 40 Cal.4th 412.

SR152 Wye Analysis: As we noted above, the failure to include analysis of SR152 wye environmental impacts cuts to the core of this document and leaves it critically flawed. Deferral of the analysis of this wye's potential impacts must be remedied before the Authority certifies the Final EIR/EIS. See *id.* Further, by referring to a non-existent response to a different comment, the Authority failed to meaningfully respond to our concerns regarding deferral of the SR 152 wye analysis. See 14 Cal. Code Regs. § 15088(c) (responses to comments must contain detailed, good-faith analysis); 40 C.F.R. § 1503.4.

Deferred Mitigation: In our comments on the Draft EIR/EIS, we noted that several mitigation measures failed to meet CEQA requirements and thus constituted improper deferral of mitigation formulation. The Authority's attempt to revise those mitigation measures still falls short. For example, mitigation measures N&V MM #3 still calls for the establishment of performance criteria for building sound insulation at some point in the future. CEQA requires performance standards to be established prior to EIR certification and project approval because, without performance standards, a lead agency cannot determine whether significant impacts will be mitigated to less than significant levels. See *San Joaquin Raptor Rescue Ctr.*, 149 Cal.App.4th 645. In other

instances, mitigation measures changed so substantially that they constitute significant new information, thus requiring recirculation prior to certification.

E. Analysis of Biological Impacts Remains Inadequate, and the EIR/EIS Cannot be Relied Upon by Agencies Issuing Permits and Approvals Necessary for the Project.

Due to the inadequacy of the EIR/EIS's analysis of impacts to biological resources and wetlands, the document is insufficient to support issuance of any of the permits and other agency approvals required for the project, including any Endangered Species Act, California Endangered Species Act, Clean Water Act Section 404, Clean Water Act Section 401, California Fish and Game Code requirements, and other permits and approvals that might be required for the project. Review of the Biological Resources and Wetlands section of the Final EIR/EIS shows that the Authority failed to adequately address the vast majority of comments we made on that section of the Draft EIR/EIS. For example, the Authority failed to address our concern that the value of agricultural lands to special status species such as San Joaquin kit fox, burrowing owl, Swainson's hawk and other raptors is inappropriately minimized in the EIR/EIS. The Authority's failure to appropriately value agricultural lands as habitat leaves its analysis of construction impacts materially flawed.

As described in the comments on the Draft EIR/EIS submitted by POH member Kole Upton (submission 750), the Hybrid Alternative will bisect and destroy a 14 acre parcel set aside 50 years ago that provides habitat for many species, including Swainson's hawks. In its cursory response to this comment, the Authority noted mitigation measures designed to minimize impacts to biological resources. This response misses the mark; impacts may only be mitigated if they are identified, and the EIR/EIS fails to identify impacts to this parcel, which was described by one biological consulting firm as an "island of refuge" for local wildlife in the area.

Given this and the other flaws we addressed in this letter, and in our letter commenting on the Draft EIR/EIS, agencies such as the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the California Department of Fish and Game cannot rely on the EIR/EIS to issue permits necessary for the project.

F. Analysis of Transportation and Noise Impacts Fails to Comply with Established Procedures.

FRA procedures for consideration of environmental impacts require an EIS to "consider possible impacts all modes of transportation, including passenger and freight rail." Final EIR/EIS at p. 3.2-1. The Final EIR/EIS states that

with the introduction of HST service, the Amtrak San Joaquin rail service is likely to be adjusted to function as a feeder service to the HST System . . . While San Joaquin service adjustments are expected to occur, connecting or direct service to existing markets is expected to be provided and would likely improve as the HST System is implemented. This would be an impact with negligible

intensity under NEPA and it would be less than significant under CEQA.

Final EIR/EIS at p. 3.2-36. Contrary to these assertions, the Revised Business Plan states that Amtrak service would no longer be provided south of Merced. Authority Chair Dan Richard has confirmed this in testimony to the legislature and comments to the press. He has also stated that the plan contemplates an immediate switch of San Joaquin Amtrak service onto the HST tracks. Doing so would likely require station location changes in Merced and Fresno and might necessitate connector tracks north of Merced. In violation of CEQA, NEPA, and FRA procedures for consideration of environmental impacts, none of these potential impacts has been disclosed and analyzed in the EIR/EIS.

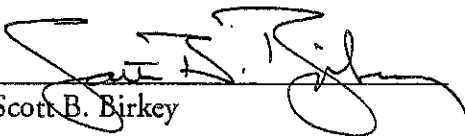
Additionally, NEPA requires federal agencies to consider local environmental protection laws, such as local noise ordinances. In this EIR/EIS, the Authority refused to apply local noise ordinances when analyzing the project's noise impacts. This constitutes a violation of NEPA.

III. CONCLUSION

POH is deeply committed to the good stewardship of our state's agricultural lands and natural resources, and we are disappointed in the Authority's failure to address the issues we raised in our comments on the Draft EIR/EIS. The Authority and the FRA have failed to properly discharge their duty under CEQA and NEPA, respectively, to produce an EIR/EIS that reflects a reasonable, good faith effort to disclose and evaluate the environmental impacts of the Project, to properly identify and describe mitigation measures and alternatives related to the Project, or to take a "hard look" at the environmental consequences of the Project. *See, e.g., Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.*, 47 Cal.3d 376 (1988); *Kleppe v. Sierra Club*, 427 U.S. 390 (1976); *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208 (9th Cir. 1998). The deficiencies identified by POH should be remedied, and the EIR/EIS recirculated for an additional round of public review and comment.

Sincerely,

COX, CASTLE, & NICHOLSON LLP

By: 
Scott B. Birkey

May 1, 2012

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cc: Governor Jerry Brown
Senator Darrell Steinberg
Senator Mark DeSaulnier
Senator Alan Lowenthal
Senator Joe Simitian
Senator Anthony Cannella
Senator Doug LaMalfa
Assemblymember John Perez
Assemblymember Cathleen Galgiani
Assemblymember Bonnie Lowenthal
Assemblymember Diane Harkey
Congressman Dennis Cardoza
Congressman Jim Costa
Congressman Jeff Denham
Congressman Devin Nunes
Merced County Board of Supervisors
Madera County Board of Supervisors



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MAY 01 2012

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Federal Railroad Administration
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Mail Stop 20, W38-219
Washington, DC 20590

Tom Fellenz
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Subject: Final Environmental Impact Statement for the California High-Speed Rail System,
Merced to Fresno Section

Dear Mr. Valenstein and Mr. Fellenz:

Thank you for the opportunity to review the Final Environmental Impact Statement (FEIS) for the Merced to Fresno Section of the High-Speed Rail (HSR) System in California, which was shared with U.S. Environmental Protection Agency (EPA) on April 18, 2012. We completed our review pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), Section 309 of the Clean Air Act, and Section 404 of the Clean Water Act.

EPA has worked closely with Federal Railroad Administration (FRA) and California High-Speed Rail Authority (CHSRA) through the programmatic environmental analysis, as well as through intensive early coordination at the project level. Project level coordination was guided by specific decision checkpoints, which are defined in an agreement signed between EPA, U.S. Army Corps of Engineers, FRA, and CHSRA (*Integrated National Environmental Policy Act and Clean Water Act Section 404 Memorandum of Understanding (NEPA/404 MOU)*). We appreciate the opportunity to engage in early coordination, and we believe that it will continue to lead to efficient resolution of potential issues and strengthened environmental documents as the environmental analysis of the statewide HSR system continues.

For the Merced to Fresno portion of the HSR system, EPA provided recommendations through a formal comment letter (October 13, 2011) following our review of the Draft Environmental Impact Statement (DEIS). We again provided recommendations via a March 28, 2012 comment letter following our review of the Administrative FEIS. We appreciate the responsiveness to multiple recommendations provided by our agency throughout the coordination and commenting process to date. Through this letter, we note remaining concerns that were not addressed in the FEIS and can be addressed in the Record of Decision (ROD) by documenting commitments for the final design and construction phase. The enclosure to this letter provides additional description of EPA's remaining recommendations, which include, but are not limited to, the following:

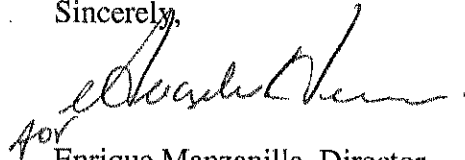
- Air Quality Impacts
 - Continue to work with the San Joaquin Valley Air District and EPA to finalize the general conformity determination for the San Joaquin Air Basin portion of the project.
 - Provide commitments for identified air quality mitigation measures to reduce construction and operational emissions to the greatest extent.
- Aquatic Resource Impacts
 - Commit to avoidance and minimization measures identified by FRA and CHSRA during the NEPA/404 MOU process and checkpoints.
 - Commit to a set of low impact development measures to retain, infiltrate, and treat stormwater runoff from all features of the HSR project.
- Planning and Growth Related Impacts
 - Commit to continue partnering with the Cities of Fresno and Merced to promote strong station-area planning in order to maximize economic, community and environmental benefits from the project.
 - Recognize the planning efforts that are needed at urban edges of station-cities and neighboring communities in order to prevent unplanned HSR induced growth, and commit to partnering and providing support to promote good planning.
 - Commit to assess which agricultural lands outside of Fresno and Merced are most at risk of experiencing HSR induced development pressures, and commit to promote placement of conservation easements in those locations.
 - Commit to partner with local and regional transit providers to develop connectivity plans and implement measures to increase transit access to HSR.

More information on the above items and additional recommendations are provided in the detailed comments section enclosed within this letter. EPA recognizes the potential environmental benefits, including reduced vehicle emissions, which an alternative transportation choice like HSR can provide if planned well. In addition to being a cleaner transportation option, we understand that a well-planned HSR system can serve as an important catalyst for improved regional connectivity and strengthened economic centers. We are committed to continued coordination with FRA and HSRA as the environmental review process for the entire statewide HSR system continues. In addition, we appreciate our ongoing partnership with FRA, CHSRA, U.S. Housing and Urban Development, Federal Transit Administration, and California Strategic Growth Council under the *Memorandum of Understanding for Achieving an Environmentally Sustainable HSR System for California*, signed in September 2011. We encourage FRA and CHSRA to continue to collaborate with EPA on best practices for maximizing environmental, economic, and community benefits from this project, while also identifying opportunities to avoid, minimize, and mitigate adverse impacts.

We appreciate the opportunity to review the Merced to Fresno FEIS and we would appreciate the opportunity to discuss our comments prior to release of the ROD. When ROD is signed, please send a copy to the address above (mail code: CED-2). If you have any questions, please contact me at 415-972-

3843 or Connell Dunning, the lead reviewer for this project, at 415-947-4161 or dunning.connell@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla".

for Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosures: EPA's Detailed Comments

Cc via email:

Mark A. McLoughlin, ICF International
Colonel Michael C. Wehr, U.S. Army Corps of Engineers
Leslie Rogers, Federal Transit Administration
Ophelia B. Basgal, U.S. Department of Housing and Urban Development
Dan Russell, U.S. Fish and Wildlife Service
Robert Tse, U.S. Department of Agriculture
Michelle Banonis, U.S. Bureau of Reclamation
Ken Alex, Governor's Office of Planning and Research
Heather Fargo, Strategic Growth Council
Matt Rodriguez, California EPA
Kurt Karperos, California Air Resources Board
Seyed Sadredin, San Joaquin Valley Air Pollution Control District
Traci Stevens, Business Transportation and Housing
Garth Fernandez, California Department of Transportation
Diana Dooley, California Health and Human Services
John Laird, California Natural Resources
Julie Vance, California Department of Fish and Game
Brian R. Leahy, California Department of Conservation
Paul Romero, California Department of Water Resources
Bill Orme, State Water Resources Control Board
Mayor William Spriggs, City of Merced
Mayor Ashley Swearengin, City of Fresno

1. AIR QUALITY

EPA understands that California High Speed Rail Authority (CHSRA) is currently coordinating with the San Joaquin Valley Air Pollution Control District (SJVAPCD) and California Air Resources Board (CARB) regarding Clean Air Act general conformity requirements, including a Voluntary Emissions Reduction Agreement (VERA) for the high speed rail (HSR) system.

Recommendations for the Record of Decision (ROD):

- EPA recommends that FRA and HSR continue to work with the SJVAPCD and EPA to finalize the general conformity determination for the San Joaquin Air Basin (SJAB) portion of the project. Describe the process for finalizing the general conformity determination in the ROD and clarify that emissions from any interim use of the new tracks will be accounted for in final emissions inventories.
- Include details of the Voluntary Emissions Reduction Agreement (VERA), including specific incentives and strategies for focusing emissions reductions proximate to actual impact locations in order to focus mitigating measures to those communities most impacted.

EPA is supportive of the many project design features and mitigation measures identified in Section 3.3.8 and 3.3.9 of the Final Environmental Impact Statement (FEIS) to reduce air quality impacts. It is stated in the FEIS that a site specific Health Risk Assessment (HRA) for the Heavy Maintenance Facility (HMF) will be conducted once a final HMF site is chosen. EPA continues to recommend that an analysis of health risk be used to help inform the choice of where to site the HMF.

Recommendations for the ROD:

- Provide commitments for the project design features and mitigation measures identified in the FEIS to ensure that air quality impacts from construction and operation of the HSR system are mitigated to the greatest extent possible.
- Provide details regarding any future health risk analysis that will be conducted prior to selecting a site for the HMF and how this analysis will be made available to the public.

2. AQUATIC RESOURCES and CLEAN WATER ACT

Developing a Final Mitigation Plan for Clean Water Act (CWA) Section 404 should be a key priority for FRA and CHSRA, as it will help avoid potential delays during project permitting. EPA will continue to work with the U.S. Army Corps of Engineers (Corps) to provide guidance to FRA and CHSRA to reduce uncertainty to the maximum extent practicable and provide substantive comments on the development of a Final Mitigation Plan.

During future CWA Section 404 permitting coordination, we recommend continued use of the approved Watershed Approach. Specifically, the Conditional Rapid Assessment Method (CRAM) and Watershed Evaluation Report (WER) (submitted during Checkpoint C of the NEPA/404 MOU process) provided information to fully describe the location, condition and context of the impacted landscape. The analysis showed approximately 1/3 of vernal pools and other non-riverine wetlands, and 1/4 of riverine wetlands along the HSR alignments were in good

condition. We note that these results were not described in the FEIS; however this information will assist in 1) providing context to the current and impacted resource conditions, 2) disclosing the project's mitigation needs, and 3) providing assurances that those needs will be met.

Recommendations for the ROD:

- Commit to and describe measures to avoid and minimize impacts to waters of the U.S., (including additional avoidance measures proposed in Chapter 5 of the NEPA/404 MOU Checkpoint C Summary Report) and provide a summary of proposed compensatory mitigation for unavoidable impacts.
- Disclose the project's mitigation needs and provide assurances that those needs will be met. Provide a summary of key findings and analyses conducted during the California Rapid Assessment Method (CRAM) and Watershed Evaluation Report (WER) in order to provide context to the determination of mitigation needs.

EPA appreciates the additional discussion of best management practices and low impact development (LID) measures provided in the Storm Water Management Report and recommends that specific LID commitments to be implemented throughout the HSR system be identified in the ROD.

Recommendations for the ROD:

- Identify commitments for LID measures to be used during construction and post construction stages of the project to retain infiltrate and treat stormwater runoff from all features of the HSR project.

3. SPECIAL STATUS SPECIES AND WILDLIFE MOVEMENT

EPA appreciates information added to the FEIS on San Joaquin River crossing design options and predicted impacts, such as impacts on Essential Fish Habitats and special-status fish species. Additionally we appreciate the discussion of Wildlife Crossing structures provided in Section 2.4.2.1 of the FEIS. We encourage CHSRA and FRA to continue to work with resource agencies as designs are further developed to ensure appropriate avoidance, wildlife crossings, and mitigation measures are developed to address project impacts.

Recommendations for the ROD:

- Include a commitment for FRA and CHSRA to continue coordination with Fish and Wildlife Service (FWS) and California Department of Fish and Game (CDFG) throughout the project timeline.
- Commit to specific FWS- and CDFG-approved design measures that: 1) remove wildlife movement barriers, 2) enhance use of wildlife corridors, and 3) provide crossings with suitable habitat, topography, light, and openness to accommodate multiple species, as well as other mitigation measures to address impacts that cannot be avoided.

4. REGIONAL AND LOCAL INDUCED GROWTH, LAND USE, AND PLANNING

EPA is supportive of FRA and CHSRA's vision for HSR station areas that stimulate infill development in city centers, are pedestrian friendly, well connected via multiple transportation options, and provide easy access to goods, services, and jobs. The vision and form of HSR-induced development outlined in the FEIS is only likely to occur if major investments in

planning, changes to land uses, and coordination among housing, transportation, business and many other sectors first take place. We recognize FRA and CHSRA's station-area planning grant program as a critical step toward achieving this vision. We also applaud FRA and CHSRA's strong partnerships with the Cities of Fresno and Merced on HSR station-area planning. Based on information provided in the FEIS, however, we strongly suggest that additional commitments are needed from FRA and CHSRA in the ROD in order to prevent significant unplanned, low-density HSR induced growth. In addition, the public should be informed of the range of potential growth scenarios that could occur to increase awareness of potential outcomes and the importance of local planning decisions.

While EPA is very supportive of FRA and CHSRA's efforts on station-area planning, we again strongly suggest that a parallel planning process to protect against unplanned development is needed at urban edges (i.e. county level) and neighboring communities that are likely to experience HSR induced growth. This parallel process could consist of partnering with local and regional governments, state agencies or non-profit organizations while CHSRA is finalizing design and construction for the HSR project. FRA and CHSRA have already committed to partner with the Department of Conservation to establish and purchase agricultural conservation easements. FRA and CHSRA can maximize the benefits from this effort by working to place easements in areas most at risk from HSR induced growth.

New information added to the FEIS on SB375 and Sustainable Communities Strategies provides a more comprehensive understanding of efforts to achieve well-planned, efficient development patterns that best serve communities. EPA urges FRA and CHSRA to commit to continue to partner with station-cities to support local planning efforts, and to form new partnerships to protect against induced growth at urban edges and neighboring communities. In addition, we encourage commitments to coordinate with local and regional transit agencies to promote connectivity with HSR. While the FEIS appears to assume that HSR stations will attract well-coordinated, relatively denser, infill development, this assumption should be supported with strong commitments, documented and memorialized through the environmental planning process, from FRA and CHSRA.

Recommendations for ROD:

- Discuss the potential uncertainty in future induced growth projections and provide a range of potential impacts that the region could experience, with reference to location, pattern, timing, and intensity of growth. Identify any connections to local planning efforts and the role local decision-making will play in determining the location of future HSR-induced growth (already urbanized areas, adjacent agriculture land, or other greenfields, for example).
- Commit to continued coordination with station cities throughout the design and construction phases of the project to assist with development of planning documents, land use regulations, and municipal policies that encourage higher density, mixed-use, transit-oriented development around stations.
- Commit to coordinate throughout the design and construction phases with non-station communities that may experience development pressure due to access to HSR. Support efforts to develop planning documents, land use regulations, and municipal development policies to inhibit low-density development in these areas.

- Develop and commit to criteria (such as proximity to stations and maintenance facilities) and commit to use the criteria for future identification of agricultural and rural lands most vulnerable to HSR induced growth impacts.
- Commit to working with the California State Department of Conservation and/or local land trusts to facilitate identification of potential conservation areas and support of future easements as a means to mitigate potential unplanned growth patterns.
- Commit to promote and support agricultural land conservation easements for high quality agricultural land most at risk for conversion due to the project as a means to mitigate potential induced growth impacts.
- Commit to collaborate with local transit agencies and transportation authorities to develop transit connectivity plans for HSR station areas and neighboring communities where high HSR ridership is expected. Specifically, commit to coordinate with Fresno Area Express, Merced County Association of Governments, and Yosemite Area Regional Transportation System.
- In order to achieve stations that are multi-modal hubs, commit to:
 - Partner with local and regional transportation agencies to facilitate easy transfers between transit and HSR, such as shared ticketing and wayfinding.
 - Design stations to be pedestrian and bicycle-friendly by incorporating features such as bike lockers, changing rooms, and showers.
 - Coordinate with car share organizations and promoting use of shared vehicles at HSR stations to provide an additional alternative to private car use.
 - Work with local jurisdictions on planning for parking and following the Urban Design Guidelines (prepared by CHSRA) and best practices.
 - Minimize the number of parking spaces to the greatest extent possible at stations in order to facilitate the use of transit, construct multi-level parking structures as opposed to large expansive parking lots, and promote programs to phase down the number of parking spaces over time.
 - Avoid surrounding HSR stations with parking lots and creating a barrier effect (as depicted in Figure 2-42b if the FEIS).
- Commit to augmenting CHSRA's "HSR Station Area Development: General Principles and Guidelines" document and "Urban Design Guidelines" document so that they include equity, and guidelines for promoting equity, as a key principle.
- Commit to working with cities and other stakeholders to help promote the integration of an appropriate percentage of low-income housing into station-area developments. The Response to Comments states that low-income housing will be addressed by other entities.

5. ENVIRONMENTAL JUSTICE AND COMMUNITY IMPACTS

EPA appreciates the revisions to the environmental justice analysis, including the addition of a clearly defined reference community, following EPA's comments on the DEIS. We recommend further disclosure of information and additional commitments in order to more fully address environmental justice and community impacts. This information may also help address issues related to compliance with Title VI of Civil Rights for CHSRA as recipient of federal funds.

Recommendations for ROD:

- Revisit conclusions regarding whether disproportionate impacts would occur for the categories where the FEIS states that disproportionate impacts would not occur because impacts would be the same among all populations. Since nearly all populations in the project area are communities of concern, it seems that all populations being affected the same might also mean that “impacts would be predominately borne by communities of concern.” This would fulfill FRA and CHSRA’s stated criteria for defining disproportionate impacts. Include any changes to conclusions regarding environmental justice impacts along with mitigation in the ROD.
- Provide estimates of the duration of construction activities that would take place within each potentially impacted community.
- In order to more fully disclose impacts, include a table that displays residential and business displacements “by community” and then totaled for each alternative, following the example of Table 3.12-9 from the Fresno to Bakersfield DEIS.
- Augment MM-SO#2 to commit to focusing business relocation efforts of neighborhood-serving businesses within their existing neighborhoods to minimize impacts to community cohesion to the extent possible and when properly zoned parcels are available or can be made available.
- Commit to conducting community workshops in all significantly affected areas to obtain input and identify mitigation measures for residents whose property would not be taken, but whose community would be substantially altered by construction of HSR facilities, including loss of neighbors. Follow the example of commitments made for the areas northeast of Hanford and Corcoran on page 3.12-83 of the Fresno to Bakersfield DEIS.

6. HEAVY MAINTENANCE FACILITY

EPA understands that analysis and decisions related to the final siting of the Heavy Maintenance Facility (HMF) will be included in the San Jose to Merced environmental review process. Please consider the following when assessing HMF siting.

Recommendations for the ROD:

- Response to Comments states that HMFs will be assessed in a future environmental document. In the ROD, clarify which document will assess HMFs, how public input will be gathered, and how a decision will be made.
- Commit to the consideration of significant impacts to sensitive receptors in the future analysis and selection of the HMF site.
- Include as a criteria in the decision-making for siting the HMF the estimated cancer risk and the Respiratory Hazard Index.

7. COMPENSATION FOR IMPACTS TO AGRICULTURAL IMPACTS

As FRA and CHSRA are finalizing the strategy for compensating for the loss of farmland and farming operations, EPA suggests that the methodology be tailored to address specific agricultural issues.

Recommendations for ROD:

- Include a robust description of the compensation strategy that will be used for farmland, including, 1) how it was developed; 2) how it calculates the present value of lost future earnings; 3) how it assesses the decreased efficiency of operations on remaining land (e.g. due to smaller field sizes, etc.); and 4) assumptions used regarding land staying in the same cropping system and/or changing to systems more amenable to smaller sites, such as truck farming for local consumption.
- In the description of the compensation strategy, include a land valuation methodology that accurately assesses which parcels will be deemed “non-economic”, including 1) assumptions for analysis; 2) source of data used; 3) factors that were considered (beyond connectivity to other farmland, as stated); and 4) the specific role of agricultural specialists in making determinations.

8. ENERGY

EPA supports CHSRA’s commitment to 100% renewable energy and facilities with net-zero energy usage, as well as the addition of text to the FEIS describing CHSRA’s ongoing partnership with National Renewable Energy Laboratory and EPA on developing a renewable energy strategy.

Recommendations for ROD:

- Commit to promote siting of renewable energy infrastructure on contaminated and underutilized lands over pristine lands if FRA and CHSRA have a role in influencing where the source of energy for powering the trains will come from. RE-Powering America’s Lands Initiative has a mapping tool that allows users to see contaminated lands by location (http://www.epa.gov/renewableenergyland/mapping_tool.htm.)
- Commit to coordinate with local farming stakeholders to consider linking farming with the need to secure renewable energy to power the project. For example, coordinated site of wind turbines, bio-digesters, and other technologies might benefit both farmers and the CHSRA.

9. CUMULATIVE IMPACTS - CHARACTERIZATION OF SIGNIFICANCE

EPA appreciates changes made to the FEIS in the “NEPA Impacts Summary” sections of Sections 3.12 through 3.18. These sections now clearly indicate whether impacts would be considered significant under NEPA. Although the Response to Comments states that Section 3.19 has also been revised, significance determinations do not appear to be included for cumulative impacts.

Recommendation for ROD:

- Provide a summary identifying whether the anticipated cumulative impacts of the proposed project are significant, as defined by Council on Environmental Quality in 40 CFR Part 1508.27.

10. SUSTAINABILITY PARTNERSHIP, POLICIES, AND PRACTICES

EPA recognizes the many ongoing efforts by FRA and CHSRA to achieve an environmentally sustainable HSR system, including partnering with EPA and others to promote best practices.

We note that several of our comments were addressed in the Response to Comments (response #774-26); however, those responses were not included as commitments in the FEIS. We recommend that all commitments identified in the Response to Comments be included in the ROD. In addition, as applicable, include the following commitments as elements of the Environmental Management System or relevant guidance documents.

Recommendations for ROD:

- Commit to continue to work with the HUD/DOT/EPA Partnership for Sustainable Communities and the State of California Strategic Growth Council under the *Memorandum of Understanding for Achieving an Environmentally Sustainable High-Speed Train System in California* (Sustainability MOU).
- Commit to implement an Environmental Management System (EMS). The Response to Comments (response #774-26) states that an EMS will be implemented, but a commitment does not appear to be in the environmental document.
- Commit to incorporate specific language on preferred qualifications and practices in Request for Qualifications and Request for Proposals to help ensure that contractors have the necessary expertise and develop appropriate proposals to design, construct, and operate the HSR system in a sustainable manner, in line with CHSRA's stated goals. EPA appreciates that the Response to Comments states that this is being addressed (response #774-26). It does not, however, appear to be included in the FEIS.
- Commit to analyze the strengths and feasibility of obtaining LEED certification at the Platinum Level for HSR facilities, including stations and maintenance facilities.
- Commit to exceed CALGreen standards in priority areas by meeting "optional" standards, including: pollutant control, indoor air quality, renewable energy, energy and water conservation, low impact development, and designated parking for fuel efficient/electric vehicles.
- Commit to provide information on green building practices when working with local jurisdictions on station-area development. In addition, encouraging third party certification (such as LEED for Homes and Build it Green) and goals to exceed CALGreen requirements by meeting "optional" standards.
- Commit to provide technical assistance for green building in station areas. Incorporate green building principles into FRA and CHSRA's ongoing grant program to support station-area development and related guidance documents (i.e. Urban Design Guidelines).
- Commit to encourage and assist local jurisdictions in designing for adaptability and reuse in station areas to increase flexibility to meet future community needs. This is especially critical for any parking features which may become unnecessary after transit connectivity is developed. For guidance, see Public Architecture, Design for Reuse Primer, <http://www.publicarchitecture.org/reuse/>, and Lifecycle Building Challenge Resources, <http://www.lifecyclebuilding.org/resources.php>.
- Commit to work with local jurisdictions to obtain LEED for Neighborhood Development (LEED-ND) Certification for station areas. LEED-ND certification provides independent, third-party verification that a building or neighborhood development project is located and designed to meet high levels of environmentally responsible, sustainable development.

11. CONSISTENCY ACROSS HSR PROJECT SECTIONS

Through our concurrent review of separate environmental documents for Merced to Fresno and Fresno to Bakersfield HSR sections, EPA identified impact categories where methodologies for analysis appear to vary. While regional differences will require adjustments to impact methodologies, EPA continues to recommend consistency in the analysis when applied to various HSR Project Sections. Sections where inconsistencies were noted include hazardous materials, HMF operational noise, cumulative noise impacts, and environmental justice.

Recommendations for the ROD:

- Confirm that methodologies and resulting conclusions and decision-making processes are being applied consistently across the multiple HSR sections. EPA is available to assist with reviewing template methodologies upfront to increase efficiency of the overall environmental review process.

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May 2, 2012

VIA HAND DELIVERY

Dan Richard, Chairperson
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Re: Objections to the Merced to Fresno Section Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

Dear Mr. Richard:

On behalf of Shawn Shiralian, Timeless Investment, Inc., Millennium Acquisitions, Inc., E-Z Trip (formerly known as Klein's) Truck Stop, Horizon Enterprises, Steven Weil and Everspring Alliance, LP, please allow this letter to serve as an additional objection to the adequacy of the Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") relating to the proposed Merced to Fresno Final Section of the proposed California High Speed Rail (the "**Project**"). My clients' additional objections and comments are as follows:

A. Location of High Speed Rail Route South of San Joaquin River

The subject EIR/EIS only studies one alternative route that is south of the San Joaquin River (comprising the northern boundary of Fresno County). The California High-Speed Rail Authority (the "**Authority**") has prematurely discarded alternative routes without the required scoping sessions and without an adequate explanation as to why the alternative routes have been discarded. My clients contend that the Authority has failed to provide the rigorous study of alternatives routes south of the San Joaquin River.

Specifically, Steven Weil ("**Weil**") provided an alternative route that avoided the impact of existing businesses and property owners adjacent to the SR 99 corridor and instead travel through now vacant land located to the west of the SR 99 corridor. It should be noted that High Speed Rail ("**HSR**") alignments east of the Union Pacific Railroad ("**UPRR**") would not require relocation of Golden State Boulevard, which is entirely west of the UPRR at this location. The Final EIR/EIS should be revised and re-circulated with description and analysis of Project alternatives other than the only route that is purportedly studied in the EIR/EIS. Attached as Exhibit 1 are copies of various alternative routes that have been previously provided to the Authority (but not studied or adequately responded to).

Dan Richard, Chairperson
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B. Failure to Include the Analysis of the I-5 Corridor

The analysis of alternative locations is also deficient in the EIR/EIS due to the fact that the Authority fails to adequately study the I-5 corridor. Furthermore, the EIR/EIS fails to provide an adequate and detailed summary of past studies which purportedly examined the utility and environmental impact of the I-5 corridor HSR route. Specifically, EIR/EIS lists as a source of information for the EIR/EIS the California Intercity High Speed Rail Commission, 1996, Corridor evaluation and environmental constraints analysis. However, the purported study is not incorporated in any detail in the EIR/EIS, is not available on the HSR Authority website, and instead, must be purchased from a third-party vendor.

In light of recent developments, my clients have learned that the HSR Authority is projecting a ridership cost of approximately ten (10) cents a mile which is approximately one-fourth of the operating costs of any existing HSR transportation system in the world. Copies of relevant information concerning the Authority's unrealistic ridership costs are attached as Exhibits 2 and 3, respectively.

Given the fact that the Authority is under a directive that operating costs are not to be subsidized, a detailed and adequate study of the I-5 Corridor is mandated.

The EIR/EIS must be revised to correct the above deficiencies and re-circulated.

C. Failure to Include Existing Technologies in the EIR/EIS

Directly related to the Authority's failure to adequately study and prematurely discard the I-5 corridor is the Authority's failure to include available technology in the EIR/EIS. The EIR/EIS only studies the use of TRG HSR technology which follows the conventional train system of a locomotive and passenger cars. This technology is almost thirty-five years old and does not represent the latest technology used for HSR transportations systems. The EIR/EIS only studies an eight (8) car train system. The current Technical Information adopted by the Authority is attached as Exhibit 4.

The existing technology that is contemporary with the EIR/EIS is the AGV technology which allows small numbers of passenger cars to operate independently of a locomotive system. Although the Authority reviewed the AGV technology in 2009, for some unexplained reason(s), the EIR/EIS fails to adequately study or analyze the use of an AGV technology which could significantly impact the costs, energy usage and other related impacts on the environment.

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AGV technology specifically enhances the feasibility and utility of a HSR system that has a "trunk and branches." A trunk and branch system completely changes the analysis performed in out-dated studies of the I-5 Corridor that only analyzed the I-5 Corridor utilizing TRG technology. Relevant information on the AGV technology developed by Alstom is attached as Exhibit 5.

The EIR/EIS must be revised to correct the above deficiencies and re-circulated.

D. The EIR/EIS Violates the Legal Principle of Segmentation

The HSR Authority is working under the directive through the Federal Railroad Commission that the portion of the HSR line that is constructed must have "independent utility." The Authority has adopted the utility of an Amtrak line as the stated "independent utility" for the Merced to Fresno HSR line.

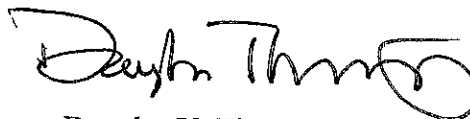
However, the EIR/EIS does not study or evaluate any of the environmental impacts of the Merced to Fresno HSR route as an Amtrak line. There is simply no adequate discussion or analysis of this Project's impact in the EIR/EIS as an Amtrak line. It should also be noted that the Authority has no present agreement with Amtrak to utilize the Merced to Fresno HSR route as an Amtrak route. Specifically, there is no study or analysis of diesel locomotives that would be used when the Merced to Fresno HSR route is utilized as an Amtrak route.

There is no study or analysis or amenities that will certainly be included in the Merced to Fresno HSR route, such as rental car lots and related facilities. There is no mention or discussion of the HSR route's impact on intersecting gas and other related utility lines.

Additionally, there is no study or analysis of the use of the Merced to Fresno HSR route as a track for speed trials and training of HSR staff, or amenities that will certainly be included in the Merced to Fresno HSR route, such as rental car lots and related facilities.

The HSR Authority EIR/EIS must be revised to correct all noted deficiencies and re-circulated.

Very truly yours,
PERKINS, MANN & EVERETT



Douglas V. Thornton

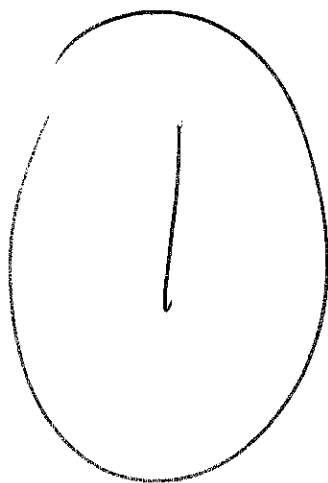
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PERKINS, MANN & EVERETT

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Enclosures

cc: Lynn Schenk, Vice Chairperson – (Via Hand Delivery)
Thomas Richards, Vice Chairperson, District 2 – (Via Hand Delivery)
Thomas J. Umberg, Board Member – (Via Hand Delivery)
Russ Burns, Board Member – (Via Hand Delivery)
Robert Balgenorth, Board Member – (Via Hand Delivery)
Jim Hartnett, Board Member – (Via Hand Delivery)
Michael Rossi, Board Member – (Via Hand Delivery)
Chris Ryan, Chief Deputy Director – (Via Hand Delivery)



The comments below on the High-Speed Train Draft Environmental Impact Report/Statement: Merced to Fresno are hereby submitted by Steven Weil. These comments are submitted in my capacity as an individual, a resident of Fresno County, a property owner in Fresno County and Madera County and as a general partner of Horizon Enterprises, a California General Partnership, which is a property owner in Fresno and Madera counties. In the comments below, the High-Speed Train Draft Environmental Impact Report/Statement: Merced to Fresno is referred to as the "Draft EIR/EIS". The California High Speed Rail Authority is variously referred to as the "Authority" or the "CHSRA". The California Environmental Quality Act is referred to as "CEQA" and the National Environmental Policy Act is referred to as "NEPA".

The comments below include significant new information not currently included in the Draft EIR/EIS and substantial evidence of a fair argument with respect to the various topics addressed below. Therefore, as required by the CEQA Guidelines, the Draft EIR/EIS must be corrected to address the issues and deficiencies commented on below and then recirculated with an additional time period for review and comment.

Alternatives

The identification and vetting of alignment alternatives for the high-speed train system both statewide and in specific regions, including the Central Valley, has occurred in fits and starts, at times with seriously deficient public agency and general public notification, occasionally based on non-transparent decision-making involving political considerations, all under the nominal label of CEQA and NEPA compliance but more often than not occurring in a manner than does not comply with CEQA or NEPA, CEQA case law or the CEQA Guidelines.

For example, after having adopted the BNSF alignment as the preferred alignment for the high speed train project following certification of the statewide programmatic EIR/EIS (Exhibit 1), the CHSRA, many months later and without public agency notification to the cities of Chowchilla and Madera, rescinded that decision and designated, instead, the UP alignment as the preferred alignment through Madera County. The City of Madera had specifically communicated its opposition to the UP alignment in its comments to the programmatic EIR/EIS and was thus satisfied with the Authority's designation of the BNSF alignment as the preferred alignment, but Madera officials and citizens were caught completely off guard, due to a lack of public notice from the Authority, when that decision was unexpectedly changed. In fact, it was not until the current alternatives analysis and environmental review process was well under way that public agency officials and members of the public in Madera County started to become aware of this policy change by the Authority regarding alignments.

These and other actions by the Authority have created a public impression of frequently changing, and sometimes inconsistent, project descriptions and objectives, in violation of CEQA and NEPA requirements that the project scope and description be stable to enable informed public discussion. As another example, the Authority discarded consideration of a "western loop" west of downtown Fresno because of a purported project objective of placing stations at downtown locations. During approximately the same time period, however, the Authority went in exactly the opposite direction in Kings County, shifting the alignments under consideration away from the downtown part of Hanford to a "greenfield" station location east of Hanford. More recently the Authority's emphasis shifted again, this time to a "greenfield" station location east of Hanford.

This lack of compliance with the requirements of NEPA and the CEQA Guidelines in proceeding with required environmental analysis of the high speed train project continued as segment-

specific alternatives were considered, evaluated and discarded by the Authority. Thus, for example, in considering various reports titled "alternatives analysis" during 2010 and 2011, reports that had cover titles referencing an EIR/EIS, in fact the procedures utilized by the Authority for public agency and general public notification, input and comment differed markedly from the requirements of CEQA as outlined in the CEQA Guidelines. For example, for the Authority's Preliminary Alternatives Analysis Report issued in April, 2010, and the Supplemental Alternatives Analysis Report issued in May 2011, there were no formal comment periods corresponding to those mandated by the CEQA Guidelines. In addition, the criteria for analyzing and then discarding an alternative did not comply with the CEQA Guidelines, nor did they correspond to all criteria required under NEPA.

The Draft EIR/EIS further compounds this deficiency by purporting to rely on all of this prior alternative analysis activity to fulfill the alternatives analysis requirements of CEQA without either including the relevant alternative analysis documentation in the Draft EIR/EIS as required by the CEQA Guidelines, or alternatively, providing a complete, comprehensive and accurate description, sufficient to enable informed public discussion, of the precise methodology utilized in the alternatives analysis process, all alternatives actually considered during the process, the criteria and basis for rejecting alternatives, a description of all alternatives not carried forward for further study and a discussion of why alternatives were discarded. This deficiency must be corrected in the Draft EIR/EIS and the document then recirculated for additional comments.

As indicated above, a significant substantive and procedural defect in the current process is that because the various alternatives analysis reports were not drafted with specific adherence to the CEQA Guidelines, the criteria for analyzing and rejecting, or carrying forward, an alignment alternative do not adequately correspond to CEQA criteria. In other words, the criteria employed in the analysis of alternatives prior to release of the current Draft EIR/EIS were those of the Authority, and did not include all of the criteria outlined in the CEQA Guidelines.

The precise function and CEQA-status of the alternative analysis documents approved and issued by the Authority prior to preparation and release of a Draft EIR/EIS was further confused by titles labeling these various reports with the term "Merced-Fresno Section High-Speed Train EIR/EIS" when, in fact, the criteria for analyzing and discarding alternatives did not include all CEQA criteria mandated by the CEQA Guidelines, the reports were never subjected to the scoping and public comment procedures mandated by the CEQA Guidelines, and the reports have not, to date, been included in the Draft EIR/EIS for review and comment. The result is that potentially viable and environmentally superior alignment alternatives have been discarded without proper vetting under CEQA and NEPA.

One significant example is outlined as follows: The April, 2010, Merced-Fresno Preliminary Alternative Analysis Report referenced above included a number of alignment alternatives, and within those a number of design option alternatives. For the A1 Alignment, a number of design options were evaluated and some discarded and not carried forward. Two A1 Alignment Design Options that were not carried forward were called Design Option 4 and Design Option 6 (DO4 and DO6 – Exhibit 2). These design options (and a variant thereof provided to Authority consultants prior to release of the Draft EIR/EIS -- Exhibit 3) provide alternative locations for crossing the San Joaquin River that mitigate the high speed train project's impacts on Camp Pashayan and certain natural features of the San Joaquin River bottom. In addition, these alternatives significantly reduce the high speed train project's impact on agricultural land in the southern part of Madera County. DO4 and DO6 (and the "variant") also offer the potential for reducing the number of grade separation structures and road closures or realignments required for the A1 Alignment in Madera County and provide significantly more dual-use grade

separation structures serving both the high speed train system and the existing BNSF freight rail system (thereby improving air quality, reducing traffic congestion and increasing public safety). None of these characteristics and advantages of DO4 and DO6 were described, discussed or analyzed in the Preliminary Alternatives Analysis Report. On the contrary, the report recommended discarding both of these design options with very limited discussion, and they were in fact discarded and thus not included in the Draft EIR/EIS.

The Alternatives section of the Draft EIR/EIS purports to describe the alternatives analysis process that preceded preparation of the Draft EIR/EIS but does so in a largely cursory and conclusionary manner inconsistent with NEPA and the CEQA Guidelines. With respect to the specific design options referenced above, it is noteworthy that a map exhibit (titled Figure 2-19) in the Draft EIR/EIS which purports to depict all "Potential Alternatives Considered During Screening" prior to preparation of the Draft EIR/EIS significantly omits DO4 and DO6, which are not shown at all on the map exhibit (Exhibit 4) nor discussed in the text of the Draft EIR/EIS. Thus, there is absolutely no reference in the Draft EIR/EIS to DO4 and DO6, which, in fact represent reasonably feasible alternatives for this part of the A1 Alignment that fulfill the objectives of the project while mitigating significant impacts of the high speed train project.

The CEQA Guidelines (Section §15126.6[(a)]) state that an EIR must address "a range of reasonable alternatives for the project, or to the location of the project, which could feasibly attain the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives." The Draft EIR/EIS includes only one alignment alternative south of the San Joaquin River through Fresno. Clearly, the inclusion of only a single alignment location, on its face, and in the context a significant number of alignment locations having been rejected, fails to meet the alternatives analysis requirement of the CEQA Guidelines.

More specifically, DO4 and DO6 referenced above were discontinued from further analysis by the Authority without consideration of CEQA criteria. In fact, the stated reasons for discarding those alternatives, as indicated above, were only two: That they traverse developed property, which is in fact largely incorrect (Exhibit 5), and that they were opposed by City of Fresno officials. These reasons were the only ones discussed in the April, 2010, Alternatives Analysis Report, without any further elaboration or explanation. The pertinent text is as follows:

"Alternative A1 – BNSF, Design Options 4, 5, and 6

The Madera/Fresno vicinity design options have similar operations but different levels of impacts. Design Option 5 would have operations similar to Design Option 4 and Design Option 6; however, Design Option 5 would create much less community disruption because it would avoid the developed residential areas north of Fresno. Fresno communicated its lack of support of Design Options 4 and 6."

In contrast to the Authority report's statement above, the fact is that the single current alignment included in the Draft EIR/EIS for this location immediately south of the San Joaquin River has numerous significant negative impacts on: 1) Existing developed and undeveloped properties west of the UP freight rail tracks, 2) The functionality of Golden State Boulevard as a collector street as required in the current City of Fresno General Plan, 3) The feasibility of a future grade-separation structure, particularly a cost-effective overpass, at the intersection of West Herndon Avenue and the UP freight rail tracks, 4) The aesthetics and functionality of a recreational feature called Camp Pashayan on the San Joaquin River bottom, and 5) The aesthetics of the San Joaquin River corridor with respect to adding a third crossing structure with numerous

columns immediately adjacent to the current visual "jumble" created by the existing Freeway 99 bridge structure combined with the adjacent existing UP freight rail bridge structure. These are all impacts that can be avoided or mitigated by an alignment based on either DO4 or DO6 or a variant thereof.

As indicated in the referenced exhibit, DO4 and DO6 also provide alignment alternatives that: 1) Mitigate significant impacts to agricultural land in south Madera County, 2) Mitigate impacts to the provision of rail spurs for future food processing and industrial facilities along the existing UP freight rail corridor north of the San Joaquin River, 3) Potentially reduce the number of new grade separation structures and local road realignments required by the high speed train project north of the San Joaquin River and 4) Provide for grade separation structure locations with dual-use potential for the grade separation of local roads at the BNSF freight rail tracks at several locations that are not provided by the A1 Alignment as currently depicted in the Draft EIR/EIS.

Finally, by providing a river crossing some distance from the current "jumble" of bridge structures created by the Freeway 99 bridge and adjacent UP freight rail bridge, DO4 and DO6, or a variant thereof, provide the opportunity for a visually distinctive river crossing structure with a single span or large spans (Exhibit 6) with significantly mitigated impacts on the San Joaquin River bottom environment compared with a river crossing supported by multiple piers as is currently indicated in the Draft EIR/EIS as programmed for this type of location.

The EIR/EIS must correct these deficiencies and include full and complete consideration of Design Options 4 and 6 for the A1 Alignment, and/or a variant thereof, with full description and analysis of these design options as alignment alternatives, including full evaluation with respect to all CEQA and NEPA criteria.

The requirement of the CEQA Guidelines (Section §15126.6[(a)]) that an EIR must address "a range of reasonable alternatives for the project, or to the location of the project, which could feasibly attain the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives." requires that an at-grade high speed train design alternative be included for the A2 Alignment through the City of Madera and the area included in the current City of Madera General Plan. This is all the more apparent in light of the fact that the Draft EIR/EIS now focuses exclusively on an at-grade or trenched design option on the single alignment under consideration through the City of Fresno where the urban street pattern and development pattern are highly similar to that in Madera, particularly with respect the historic street grid patterns in downtown Fresno and downtown Madera. Thus, whereas only a visually blighting and intrusive aerial structure is analyzed for the A2 Alignment through Madera, with no consideration or provision for grade-separating existing local streets from the existing UP freight rail tracks, in Fresno, by contrast, the Draft EIR/EIS provides an at-grade and trenched design that includes a significant number of grade-separation structures, providing the Fresno community, unlike the Madera community, with millions of dollars of grade-separation infrastructure for local streets crossing the existing UP freight rail tracks. In addition to other CEQA and NEPA issues, this disparity in the treatment of geographically similarly situated communities raises significant environmental justice issues and concerns.

Various California governmental entities have studied alignment and other issues relating to a high speed train project in the state since the early 1990s, with a generally unarticulated but accepted assumption that route design decisions made early in the process, which began more than a decade ago, need not be revisited. Thus, for example, the decision to discontinue consideration of any high speed train route that might include a corridor along Interstate 5 north

of Bakersfield was based on an analysis completed in 1996 by a Commission that preceded formation of the Authority. The corridor alternatives considered in that report, entitled High-Speed Rail Corridor Evaluation and Environmental Constraints Analysis Final Report (California Intercity High Speed Rail Commission 1996) are depicted in a map exhibit of the report called Figure 2.3-2 (Exhibit 7). The corridors recommended by the 1996 study for further study are depicted in Figure 2.3-3 of the study (Exhibit 8). These figures indicate that an Interstate 5 (I-5) corridor north of Bakersfield was considered and rejected in 1996 by the predecessor agency of the Authority. There is no indication in the record of the high speed train project that such a corridor alternative was ever again considered by any governmental entity, including the Authority, after that decision by the Commission, or that the Commission decision to discard an I-5 corridor alternative was ever reconsidered. Also of note is that the 1996 Commission report was not developed in the context of a CEQA or NEPA process. Therefore, the results of that report cannot be said to conform to NEPA requirements or the CEQA Guidelines regarding the rejection of reasonably feasible alternatives that should be included in the Draft EIR/EIS.

High speed train technology, and more specifically high speed train technology as it relates to route design issues, has evolved, changed and advanced since the decision in 1996 to discontinue consideration of a corridor that might include the I-5 alignment north of Bakersfield. For example, there is now a successor technology to TGV systems (that were state-of-the-art in the late 1990s): AGV, described in a Wikipedia post as follows:

"The **Automotrice à grande vitesse (AGV)** is an Alstom train intended as the successor to France's TGV high-speed trains; the name stands for *automotrice à grande vitesse*, or 'high-speed self-propelled carriage'. Instead of having separate power cars at either end of the train, as current TGVs do, the AGV has distributed traction with motors under the floors of the passenger carriages. This is the arrangement used on many regular-speed multiple unit trains and also high-speed trains such as the Siemens Velaro and Japan's Shinkansen trains, although the AGV combines it with the articulated design that characterizes the TGV family. The Jacobs bogies are now powered, providing more space without compromising security. Alstom offer the AGV in configurations from seven to fourteen carriages, with a total of 250–650 seats, depending on internal layout and number of carriages.^[1] The commercial service speed will be 360 km/h (220 mph).^[2] According to Alstom, the AGV weighs less than its rivals which reduces its power consumption, and it consumes 30% less energy than previous TGV designs. The prototype was unveiled on 5 February 2008,^[1] with French President Nicolas Sarkozy in attendance."

A key feature of AGV is the provision of distributed traction with motors associated with each train unit, bringing the routing flexibility provided by multiple unit trains to route planning for high speed articulated train systems. This indicates that there is substantial evidence that viable route alternatives for high speed trains that include "trunk and branch" configurations, which were not considered in the late 1990s in the California studies, are now fully available for consideration as a result of high speed train technology advances. This is significant new information now, but not previously, available relating to route design alternatives. Thus, a "trunk and branch" approach applied to the project objectives of the high speed train program with a route configuration that includes a corridor along the portion of the Interstate 5 alignment discarded from further consideration in the late 1990s (Exhibit 9 and Exhibit 10), is now, in the words of the CEQA Guidelines, well within the "range of reasonable alternatives for the project, or to the location of the project, which could feasibly attain the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives."

The Draft EIR/EIS is deficient in not including a route alternative, or alternatives, equivalent to the one described above. Such an alternative, or alternatives, must be included in the Draft EIR/EIS with full analysis with respect to all CEQA and NEPA criteria. This should include a comparative analysis of an "I-5 trunk and Valley-cities branch" route model (utilizing AGV or equivalent technology) with the route alternatives currently under consideration in the Draft EIR/EIS with respect to performance and sustainability in terms of revenue, finances, operations, competitiveness, , energy efficiency and environmental factors.

City of Madera General Plan

Significant Current Projects – Madera Town Center

Schmidt Creek Flood Control Engineering Plans

Schmidt Creek Jurisdictional Wetlands

The General Plan of the City of Madera designates an area of approximately 200 acres (contiguous to the existing UP freight rail right-of-way immediately east of State Route 99 north and south of Avenue 17) as a focus of major commercial development, including retail, highway service, automotive retail and office uses (Exhibit 11). This location was selected because it combines excellent visibility from Freeway 99 for projects and major signage with direct freeway access from the Avenue 17/Freeway 99 interchange.

The City and private sector have invested hundreds of thousands of dollars in infrastructure engineering and installation to advance the development of this commercial corridor. Those infrastructure investments include sewer trunk line and water main extensions under the freeway, engineering and Federal Emergency Management Agency (FEMA) approval of creek channelization and a flood water impoundment basin to remove approximately 50 acres from current federally-designated flood zones, master planning of a mile-long arterial street and related underground infrastructure for the purpose of adopting a street plan line and securing utility easements, and additional infrastructure planning and engineering related to drainage and municipal and private utilities.

This activity included a multi-year process of entitlement approvals, including certification of an Environmental Impact Report, for a retail shopping center (Madera Town Center – Exhibit 12) as the first project in this commercial corridor, to consist of approximately 75 acres of development encompassing approximately 750,000 square feet of retail construction in phases. The developer of this retail project, Zelman Madera LLC, communicated opposition to the A2 Alignment through a letter to the CHSRA (Exhibit 13) and testimony by Ben Reiling, CEO of Zelman Madera LLC, at an Authority Board meeting in Los Angeles. Also, Mr. Reiling has testified before the Madera City Council that construction of the high speed train project on the A2 Alignment through Madera would so severely impair the retail project's visibility from Freeway 99, including the visibility of key retail signage (including pylon signs) mandated by the project's retail tenants, that his firm would be forced to abandon the project and write-off the project site as unsuitable for commercial development.

Subsequent to this testimony and the Zelman firm's letter to the Authority, the developer suspended all development efforts at this site pending the ultimate outcome of the Authority's alignment selection process. The Zelman entities continue to assert that selection of the A2 Alignment for the high speed train project would render this site, which consists of approximately 100 acres (including planned flood control infrastructure) completely unsuitable for commercial development from its perspective.

Of note is that although the City of Madera fully informed the Authority of this project and it is listed in the Draft EIR/EIS as a significant current project within Madera, the Draft EIR/EIS provides no analysis or discussion of impacts of the high speed train project on the Madera Town Center project, the project site, or the project's viability. This lack of analysis ignores significant information relating to such impacts, as outlined in these comments, and must be remedied by a full and complete discussion in accordance with CEQA and NEPA criteria of the Madera Town Center project and project site and, as stated above, the related General Plan commercial corridor. Mitigation measures to eliminate impacts and compensatory mitigation measures to the extent impacts are not eliminated, must be identified, including a mitigation monitoring program.

The Zelman entities and the prior property owner, Horizon Enterprises, have collectively invested hundreds of thousands of dollars in engineering surveys, environmental studies, site planning and infrastructure engineering for the Madera Town Center site, including without limitation, complete infrastructure improvement plans for a 25-acre creek channelization, floodway, and flood water impoundment pond and pumping system to remove approximately 50 acres from an existing FEMA flood zone designation. Detailed engineering plans for these flood work improvements were reviewed and approved by FEMA in 2007.

The high speed train project footprint on the A2 Alignment, as depicted in Draft EIR/EIS, significantly encroaches into the footprint of this flood work project, notably the site of the flood water impoundment pond and pump station. Therefore, construction of the high speed train project on the A2 Alignment at this location would render all of the engineering plans for the subject flood work unuseable, rendering useless engineering plans and environmental studies costing hundreds of thousands of dollars expended over a multi-year period of time.

In addition to its impact on flood work engineering plans developed for the Madera Town Center site and approved by FEMA, the high speed train project on the A2 Alignment directly impacts an existing federally designated flood zone and floodway channel. At a minimum, the high speed train project must fund replacement environmental studies and engineering for the flood work plans identified above and, additionally, directly mitigate any flood zone and floodway related impacts from the high speed train project at this location. Discussion of this flood zone and flood engineering issue must be included in the Draft EIR/EIS, with identification of appropriate mitigation measures and a mitigation monitoring program. With these corrections, the Draft EIR/EIS must be recirculated for comments.

In addition, the A2 Alignment footprint at this location crosses Schmidt Creek and related wetlands. Schmidt Creek and related wetlands have been determined to be jurisdictional by the United States Army Corps of Engineers (USACE). Specific reference is made to a letter from the Sacramento District Office of the USACE dated January 5, 2009, to the Zelman entities responding to a request by a Zelman consultant for a jurisdictional determination for the Madera Town Center project site (Exhibit 14). This letter confirms the jurisdictional status of Schmidt Creek and related wetlands at this location as follows:

"Based on available information, we concur with the estimate of waters of the United States, as depicted on WRA's July 15, 2008, revised Madera Town Center Section 404 Jurisdictional Areas drawing. Approximately 6.96 -acres of waters of the United States are present within the site boundaries shown on the above drawing. These waters, including a portion of Schmidt Creek and adjacent wetlands "A and B are regulated under Section 404 of the Clean Water Act, since they are tributary, adjacent to tributaries, and /or have a significant nexus to navigable waters of the United States."

The EIR/EIS must fully analyze impacts to Schmidt Creek and related wetlands and provide specific mitigation measures for all such impacts, including a mitigation monitoring program. Technical Reports in the Draft EIR/EIS relating to wetland delineations must be corrected to include the jurisdictional portions of Schmidt Creek and related jurisdictional wetlands. The Draft EIR/EIS must specify how the Clean Water Act Section 404 permitting process will be complied with for the jurisdictional features associated with Schmidt Creek at this location, including an alternatives analysis for avoidance impacts to wetland resources and/or minimization and mitigation of lost wetlands as a result of the high speed train project on the A2 Alignment.

Construction of the high speed train project at this location will, in the case of an aerial structure, create a giant "picket fence" effect in relation to visibility of the Madera Town Center and other projects (and related signage) from Freeway 99. Partial mitigation might be accomplished by the ability of the commercial projects in this corridor to construct appropriate pylon signs with tenant identification on land between the existing UP freight rail right-of-way and the required right-of-way for the high speed train aerial structure.

To further elaborate, the commercial corridor in question extends for approximately one mile along the freeway contiguous to the existing UP freight rail right-of-way. A local road named Sharon Boulevard, within an approximately sixty foot wide right-of-way, extends immediately north and south of the one mile long commercial corridor frontage, but does not exist within that frontage. Thus, the "footprint" of the A2 Alignment as currently depicted in the Draft EIR/EIS excludes the right-of-way of Sharon Boulevard, but along the frontage of the commercial corridor, where Sharon Boulevard does not exist, the A2 Alignment footprint extends entirely to the UP right-of-way (becoming sixty feet wider than the A2 Alignment footprint to the north and south of the commercial corridor). In other words, within the frontage of the commercial corridor in question, the "footprint" for the high speed train project on the A2 Alignment is sixty feet wider than is required to construct the project, as indicated by the narrower high speed train project footprint that avoids the local road to the north and south of the commercial corridor.

The above circumstance creates a linear area of land approximately sixty feet wide immediately between the existing UP freight rail right-of-way and the required footprint of an aerial structure on the A2 Alignment (Exhibit 15). The City of Madera has indicated to property owners within this corridor, and in written comments to the Authority on the Draft EIR/EIS, that it supports a mitigation measure to alleviate the loss of freeway visibility to the commercial corridor whereby this linear area of land would be available for the installation of appropriate pylon signage related to development within the commercial corridor, with City of Madera review and approval authority over the design and installation of such signage.

Implementation of this "signage mitigation" could be accomplished by simply excluding this linear property area from the footprint of the high speed train project, with the City regulating the installation of signage on private property. Alternatively, a mitigation measure could involve conveyance of the linear property area to the City of Madera for this signage use, either from the current private owners or by the Authority following acquisition of the footprint area. The EIR/EIS must include a mitigation measure, in accordance with the foregoing, to mitigate the impact of the high speed train project, if constructed on the A2 Alignment, from reducing and impairing existing site visibility from Freeway 99 in order to protect the land use viability of the commercial corridor designated at this location in the City of Madera General Plan.

Implementation of this mitigation measure will only in part reduce the negative impact of the high speed train project on the freeway visibility currently available to properties within this corridor. Failure to adopt and implement, at a minimum, the mitigation measure described herein would render the entire 200-acre commercial corridor non-viable for the land uses intended in the City of Madera General Plan. To maintain the balance of land uses achieved in its current General Plan, the City of Madera would need to undertake a plan amendment process to identify and designate alternative locations for this type of development, if such locations are even available. In addition, a plan amendment process to study and re-designate the properties within the currently-designated commercial corridor to a viable land use designation, possibly including residential uses, would be required. Since these land use planning activities are a foreseeable result of the high speed train project on the A2 Alignment, the Draft EIR/EIS should, itself, include this analysis and environmental review to relieve the City of Madera and the community of the financial burden and delay inherent in such a process.

This analysis in the Draft EIR/EIS must include the community and regional planning and environmental justice issues raised by the "hollowing out" of this area of Madera that is foreseeable from negative, unmitigated impacts relating to noise, aesthetics and blight from the high speed train project on the A2 Alignment. Designation of this 200-acre commercial corridor in the Madera General Plan was, in part, a response to the longstanding condition of this area as having been by-passed by earlier residential development due to its proximity to the freeway and freight railroad.

The planned freeway-oriented commercial corridor is bordered by existing, longstanding residential development but has, nevertheless, remained undeveloped. The City of Madera General Plan recognized the unique attributes of this location (i.e. proximity and access to and visibility from the freeway) as the basis for programming quality commercial development in an infill area that had been bypassed. However, by impairing these qualities and introducing increased and additional negative impacts, the high speed train project will, foreseeably, relegate this entire 200-acre area to remaining bypassed. This would have a significant detrimental impact on Madera's General Plan objectives of compact development, transit connectivity, land use diversity and economic sustainability.

Construction of the high speed train project on the A2 Alignment is also inconsistent with the Circulation Element of the City of Madera General Plan (Exhibit 16), specifically the alignment of a planned arterial street designed to connect Avenue 17 south to Ellis Avenue and provide improved access to an area exceeding 100 acres. As evidenced in comments by the City of Madera to the Draft EIR/EIS, the City has expended approximately \$300,000 in engineering costs pursuing the adoption and implementation of an official plan line for this arterial, and thousands of dollars more have been spent by private sector entities for engineering for underground utilities intended to be co-located in the arterial right-of-way. The Draft EIR/EIS must provide a mitigation measure to fully fund re-engineering of the road right-of-way and utility easements.

In addition, the footprint of the high speed train project on the A2 Alignment indicates that existing access to property immediately north of Sharon Avenue, currently provided by Sharon Avenue at its terminus, will be terminated. Therefore, the Draft EIR/EIS must provide a mitigation measure to restore access to the property immediately north of Sharon Avenue at its current terminus through a minor re-routing of Sharon Avenue (Exhibit 17), with all costs for implementation of this new connector, including right-of-way, engineering and construction, to be provided by the high speed train project through implementation of the mitigation measure.

Station Design and Planning

No provision for rental car facilities, including rental car maintenance facilities, at the high speed train station in Fresno is included in the Draft EIR/EIS. This deficiency in the Draft EIR/EIS must be corrected, including a description of the foreseeably required rental car facilities, including rental car maintenance facilities, and an analysis under CEQA and NEPA criteria of all impacts resulting from such facilities, including the identification of mitigation measures and a mitigation monitoring program.

Of note is that the City of Fresno recently completed a master plan for the Fresno-Yosemite International Airport (FAT) Consolidated Rental Car Facility which included eleven acres for eight car rental agencies. The new facility is designed to provide opening day parking for 800 rental cars, with expansion capabilities for another 400 vehicles. The design provides a high level of customer service due to its close proximity to the baggage claim area and retail counters within the terminal and by the fact that all pedestrian walkways and vehicle spaces are covered, protecting both customers and cars from summer heat.

Economic Impacts

Under the subheading "Economic Impacts" of Section 3.12.3.1 of the California High-Speed Train Project EIR/EIS (Draft) Merced to Fresno Section, the document describes the analysis that purportedly quantifies the economic impact on communities relating to reduced public agency revenue from property and sales tax receipts. This analysis, however, is confined to the direct effects on revenue streams from property acquisition for the project, and thus fails to quantify and evaluate revenue losses from impacts of the project on the economic viability of properties adjacent to and proximate to the project. Thus, for example, in the communities of Madera and Chowchilla, the A2 Alignment adjoining the existing UP freight rail right-of-way has reasonably foreseeable impacts on the economic viability of existing and planned commercial development provided for in the general plans of those communities. In both of those cities, land use policies in their general plans provide for specifically-located areas adjoining the Freeway 99 corridor that have site and signage visibility from the freeway to be developed with various intensities of commercial and light industrial development. Development of the high-speed train project on the A2 Alignment, without appropriate mitigation, would deny these locations adequate freeway visibility and thereby negatively impact their economic viability for existing and future commercial development. This, in turn, denies Madera and Chowchilla the opportunity to attract commercial development, with its related product and service offerings, that require the particular level and quality of freeway visibility and access that these properties and locations currently provide. This, in turn, disrupts the land use and economic balance achieved in these general plan documents and policies. The Draft EIR/EIS is deficient in not including an analysis of the economic impact of significantly impairing the commercial development viability of these areas. In addition, the economic impacts on existing local agency revenues from reduced sales and property taxes from existing commercial enterprises negatively impacted by the visual blight of an elevated structure on the A2 Alignment must be quantified and analyzed, including mitigation measures, in the Draft EIR/EIS.

Environmental Justice

The lack of an at-grade alternative for the A2 Alignment through the communities of Madera and Chowchilla in the Draft EIR/EIS raises serious environmental justice issues with respect to whether those communities, and in fact the entirety of Madera County, have had adequate time and resources for timely and effective input to the Authority on alternatives with respect to the Draft EIR/EIS process. More specifically, for many months aerial structures were the only alternatives under consideration through the City of Fresno for the high speed train project on both the A1 and A2 Alignments. City of Fresno staff reports to the Fresno City Council indicate that the City of Fresno retained a private engineering firm to work with the CHSRA and its consultants to develop an alternative to aerial structures through the City of Fresno. Thereafter, the Authority decided to discontinue any consideration of aerial structures in Fresno and focus on a single alignment with an at-grade and trenched design.

Similarly, the City of Gilroy has retained a private consultant to assist it in evaluating the alternatives of trenched, at-grade and elevated designs on two separate alignments (Exhibit 18). In addition, Gilroy has more time to conduct this analysis than communities in Madera County due to the schedules of the high speed train environmental documents.

In contrast to the larger or more affluent communities of Fresno and Gilroy, the cities of Madera and Chowchilla have had neither the time nor resources to conduct such independent studies useful in communicating with the Authority and its consultants to accomplish community objectives. In discarding consideration of aerial structures through Fresno, the Authority described this change as having resulted from a cost-driven analysis of aerial structures. Clearly the same cost issues apply in equal measure to the virtually identical aerial structure designs through Madera and Chowchilla. Nevertheless, unlike for Fresno, the Authority did not conduct any reexamination of the use of aerial structures through any part of Madera County, and in fact the only alternative under consideration in the Draft EIR/EIS for the A2 Alignment through the City of Madera is an aerial structure design.

These potential disparities are of all the more concern in the context of the fact that for the most physically constrained areas of both the cities of Fresno and Madera, their historic downtowns, the pattern of urban development, including the urban street grid established at the turn of the century by the railroad, is virtually the same. Thus, downtown Fresno and downtown Madera have virtually identical physical constraints with respect to the location, design and cost of grade-separation structures, either overpasses or underpasses, to accommodate an at-grade high-speed train alignment. Nevertheless, after months of having focused exclusively on aerial structures through both cities, the Authority, in a very short period of time purportedly for cost-efficiency purposes, completely discontinued analysis of an aerial design through Fresno in favor of an at-grade and trenched design, whereas for an equally cost-challenged segment of aerial structures through Madera, no consideration of an at-grade alternative has been forthcoming.

Clearly, for many reasons including environmental justice requirements, the Draft EIR/EIS must include an at-grade and/or trenched alternative for the A2 Alignment through the City of Madera and City of Chowchilla just as it has for the City of Fresno.

Project Scope, Description and Objectives: Independent Utility and Test Facility

In numerous public statements, reports to the Authority Board and applications and filings with federal agencies, the CHSRA have stated that the Initial Construction Section (ICS) (Exhibit 19) of the high speed train project, a portion of which is within the Merced-Fresno project segment analyzed in the Draft EIR/EIS, will include provisions for "independent utility" and will be utilized as a "test facility". Those intended project capabilities were outlined in a July 2011 briefing to the Authority Board (Agenda Item #7) in a briefing memo from the Authority staff, dated July 14, 2011, and titled "Initial Operating Segment (Overview of the Concepts)" (Exhibit 20), which included, among others, the following statement:

"As required by the federal grants the ICS will also have the possibility to offer "independent utility". That is, it will be available to provide enhanced intercity high-speed passenger rail service if for any reason the ultimate full Real High-Speed system is not built out fully."

Preparation of the Merced-Fresno EIR/EIS was fully underway when this staff briefing to the Board was presented, clearly indicating that the scope and description of the project to be analyzed under CEQA and NEPA would include independent utility, meaning "enhanced intercity high-speed passenger rail service" even in the absence of the rail service ultimately to be provided upon further implementation of the statewide high speed train project.

It is clear from this briefing document and many other public statements and filings by the Authority (Exhibit 21) that actual high speed train service will not occur until the ICS is connected to either (or both) of the major metropolitan high-speed train passenger markets i.e. the Bay Area or Los Angeles area. In addition, as also confirmed in public statements by the Authority, the only existing inter-city passenger rail service that could realistically immediately operate on the ICS within the project included in the Merced-Fresno and Fresno-Bakersfield segments is Amtrak service.

Reliance on Amtrak service on the Merced-Fresno section of high speed train project as the means of fulfilling "independent utility" is clearly indicated in the following statement by the Authority, in its application to the federal government for funding under the ARRA program: "Independent utility is provided by constructing approximately 50 miles of new high-speed double-track railroad between Merced and Fresno allowing connection into conventional rail passenger services at each end." (CA-MERCED/FRESNOHST-DESIGN/BUILD, 10/01/2009, High-Speed Intercity Passenger Rail (HSIPR) Program, Corridor Service Overview form for Track 2-Corridor Programs, Federal Railroad Administration (FRA))

However, the Draft EIR/EIS includes no description, discussion or analysis (including no discussion of environmental impacts or mitigation measures) as to how this project will accommodate the requirement for independent utility. The Draft EIR/EIS must include this information, including a complete analysis of environmental impacts of all alternatives for independent utility utilization of the project, including Amtrak use of the project. This analysis must include a complete analysis consistent with all CEQA and NEPA criteria, including discussion of impacts, mitigation measures and mitigation monitoring programs. These would include, without limitation, impacts related to air quality, noise and vibration and public safety (including seismic and other structural design issues) arising from the need to accommodate the operation of Amtrak trains on the project.

The Draft EIR/EIS must also describe and analyze in detail how Amtrak service will access the A2 Alignment in the event that alignment is not fully completed in a single phase to connect to

existing Amtrak facilities. For example, if the ICS is constructed on the A2 Alignment up to approximately Borden in Madera County, which has been discussed publicly by Authority as a possible scenario, the Draft EIR/EIS must describe and analyze in detail, including full discussion of mitigation measures and a mitigation monitoring program, how a passenger rail connection from the A2 Alignment at Borden back to current Amtrak facilities utilizing the BNSF rail system would be implemented. Similarly, if, as has also been referenced in at least one Authority Board meeting, a reasonably foreseeable scenario is that construction of this segment may end, on an interim basis, at the "Wye" near Chowchilla, reconnection to the BNSF tracks must be fully described and analyzed, including a full discussion of the impacts of having Amtrak bypass the existing station east of Madera, which is the only Amtrak station serving Madera County.

The July 14, 2011, staff briefing to the Authority Board also addressed utilization of the ICS as a "test facility", as follows:

"A high speed rail system is complex and involves multiple elements that must be fully integrated under various operating scenarios before being placed into revenue service. This can only be done on a dedicated track that is capable of replicating the actual operating scenarios at the actual operating speeds. It should be remembered that all the core technology for Real high-speed rail systems (rolling stock, signalization, electrification, track, turn-outs, switch-machines, etc.) are not available in the USA, and would have to be transferred to the USA based on "Technology transfer agreements" so that manufacturing in the USA will take place to meet the "Buy-America" requirements. All these sub-systems, and the system as a whole, need to be tested at full capacity and at design speeds, before safe operation can be started. A test facility is required to make this possible. Currently there is no such test track in the U.S."

Later, the briefing report states:

"The test track will be used to verify the integration of the various high speed components, to train the operators and the maintainers, etc. to ensure that the completed system is safe, reliable with properly trained and fully competent staff to enter revenue service."

The briefing report goes on to restate and confirm that the "ICS/Test track" will not accommodate actual high-speed passenger train service (i.e. revenue-generating service) until completion of an extension "to connect the Central Valley first to either the Bay Area or to the L.A. Basin."

These statements in the staff briefing raise a large number of issues that are not addressed in the Draft EIR/EIS, but which the document must address. Most obvious is the fact that use of the project as a test track, and indeed the only test track in the United States, is not described or analyzed in any level of detail consistent with the requirements of CEQA or NEPA anywhere in the Draft EIR/EIS, a defect that must be corrected. Trains on test tracks in Europe have reached speeds that exceed the highest train speeds analyzed in the Draft EIR/EIS. For example, a high speed train speed of 574.8 km/h (357.16 miles per hour) on a 170-kilometer (105.63 miles) section of track between the Champagne-Ardenne and Lorraine stations was achieved in April, 2007.

It is not clear that the infrastructure, equipment and operational assumptions contained in the Draft EIR/EIS fully describe all elements to be "tested" Significant public safety and environmental issues raised by potential use of the project to "verify the integration of the

various high speed components, to train the operators and the maintainers, etc. to ensure that the completed system is safe, reliable with properly trained and fully competent staff to enter revenue service" are not, but must be, addressed in the EIR/EIS.

In addition, the statement in the staff briefing that testing a high speed rail system "can only be done on a dedicated track that is capable of replicating actual operating scenarios at the actual operating speeds" appears to conflict operationally with use of the project to accomplish "independent utility" through the operation of Amtrak or other actual passenger rail service on the project. In other words, based on the staff briefing, the project objectives of serving as a "test track" and serving as a passenger rail system with "independent utility" appear to be in direct conflict, both in terms of infrastructure and operations. This must be fully addressed in the Draft EIR/EIS.

Finally, the EIR/EIS must include a full discussion of the criteria to be utilized in authorizing use of the test track. Will equipment not made in the United States be permitted to be tested on the project, and under what protocol regarding safety, maintenance, energy consumption, liability and worker protections? If Buy-America requirements apply to all equipment to be ultimately used for high speed train passenger service, what would be the purpose of testing trains not manufactured or assembled in the United States on the project?

Similarly, if Buy-America requirements are to be strictly adhered to, and given that facilities to produce high speed train equipment do not presently exist in the United States, what period of time would elapse until the project can be used as a test track, and what revenue source will be available to insure maintenance of the project during that time period? For that matter, what are the revenue or other fiscal assumptions relating to maintenance of the project during the entire period before actual high speed passenger rail service begins, and how do those fiscal assumptions relate to the viability of implementing and sustaining mitigation measures and maintenance of the project infrastructure to avoid public safety and blight issues?

The Draft EIR/EIS is deficient with respect to addressing the issues identified above and must include a complete, comprehensive and detailed description, discussion and analysis of them, including mitigation measures and mitigation monitoring programs, all in accordance with CEQA and NEPA criteria.

Noise and Vibration

Pursuant to the discussion above under "City of Madera General Plan and Significant Current Projects", negative impacts from the high speed train project on the economic and developmental viability of the 200-acre freeway commercial corridor currently designated in the City of Madera General Plan (on the east side of Freeway 99 north and south of Avenue 17) may require redesignation of land uses within the commercial corridor, including the introduction of residential and other noise-sensitive land uses at that location. Therefore, in connection with the need for the Draft EIR/EIS to be corrected to provide a complete analysis of such foreseeable land use policy changes, the noise and vibration analysis in the Draft EIR/EIS must include an analysis of impacts and mitigation measures relating to sensitive-receptor land uses that may occur at this location. Specifically, Figure 3.4-11 on Page 3.4-35 of the Draft EIR/EIS must be modified to identify this location within the Madera General Plan as a "Severe Noise Impact Location".

The cumulative noise and vibration impacts from projected growth in freight rail traffic in combination with the initiation and growth of high speed train operations on the A2 Alignment

through Madera are not adequately quantified or analyzed. Specifically, the noise and vibration impacts resulting from a future “double-tracking” of the UP freight tracks is not sufficiently addressed in the Draft EIR/EIS. In addition, the amplification of freight rail noise as it interacts with an aerial structure on the A2 Alignment requires detailed analysis, including identification of mitigation measures, which is not currently provided. The Draft EIR/EIS must be corrected to correct these deficiencies and recirculated for additional comment.

The Draft EIR/EIS states that: “The noise analysis used source reference levels for the VHS Electric vehicle type listed in Table 5-2 of the FRA Guidance Manual (FRA 2005). These adjustments assumed that trainsets would be distributed-power EMU vehicles with 8 cars and a maximum speed of 220 mph.” These modeling assumptions are insufficiently expansive to include all reasonably foreseeable operational and technological scenarios. Notably, these assumptions are based on criteria established before 2005 and therefore do not fully account for newer high speed train technology currently being deployed. Also, the assumption of an 8-car trainset does not fully account for the operational capacity of the high speed train system at full utilization.

Electromagnetic Fields and Electromagnetic Interference

The specific locations of traction power substations, switching and paralleling stations and back-up and emergency power supply sources for the high speed train system were not identified in the Draft EIR/EIS. As a result, the various factors evaluated in the Draft EIR/EIS relating to electromagnetic fields and electromagnetic interference, including potential impacts on public health and on adjacent land uses and interference with freight rail operations were not evaluated with respect to these facilities. This deficiency must be corrected in the Draft EIR/EIS, including the identification of mitigation measures and a mitigation monitoring program, and the corrected document recirculated.

High Pressure Natural Gas Pipelines and Public Safety

The locations of existing high pressure natural gas pipelines and their relationship to the construction and operation of the high speed train system is inadequately addressed in the Draft EIR/EIS. Specifically, the Draft EIR/EIS identifies these locations only generally. In fact, significant high pressure natural gas lines are located within and proximate to the footprint of the high speed train project on the A2 Alignment that are not identified or discussed in the Draft EIR/EIS (Exhibit 22). This deficiency must be corrected in the document.

In addition, the impacts on public safety of constructing and operating the high speed train system on the A2 Alignment adjacent to a significant regional, but shallow, PG&E high pressure natural gas transmission line and a freight rail line must be fully evaluated. This should include evaluation of the multiple safety challenges of a freight train derailment and/or rail tanker fire (Exhibit 23 and Exhibit 24) adjacent to or within the high speed train right-of-way and the high pressure natural gas transmission line easement.

The Draft EIR/EIS must also include discussion of emergency contingency planning, training and coordination with local first-responders, including mitigation measures for funding such activities. Additionally, the impacts from an interruption in the operation of the high speed train system due to an accident or sabotage, including issues relating to evacuation of the area of the emergency event (including that portion of the high speed train system impacted by the emergency event), must be included in the Draft EIR/EIS. The corrected document must be recirculated for additional comments.

Preferred Alignments and Stations - North

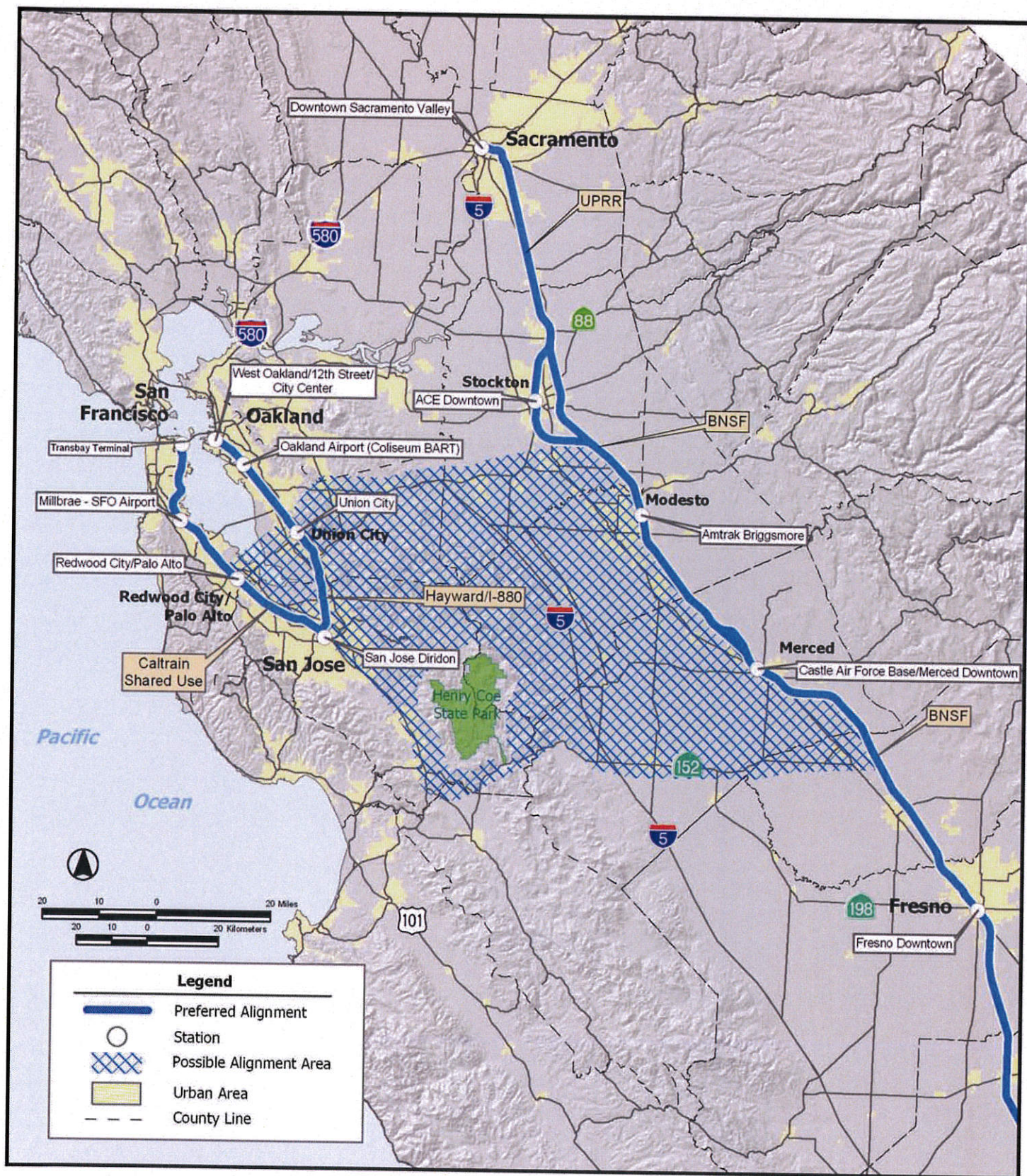
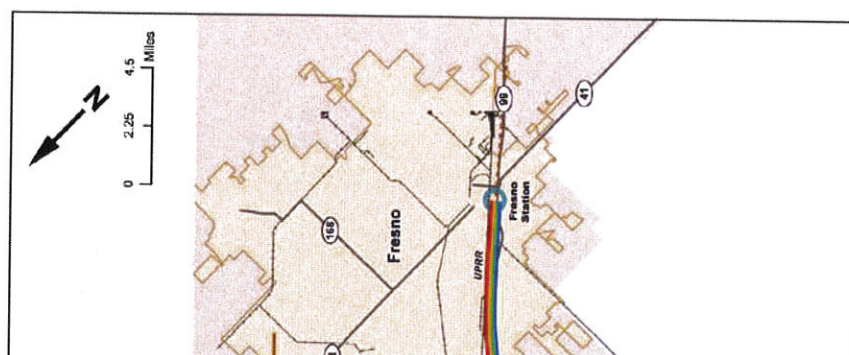
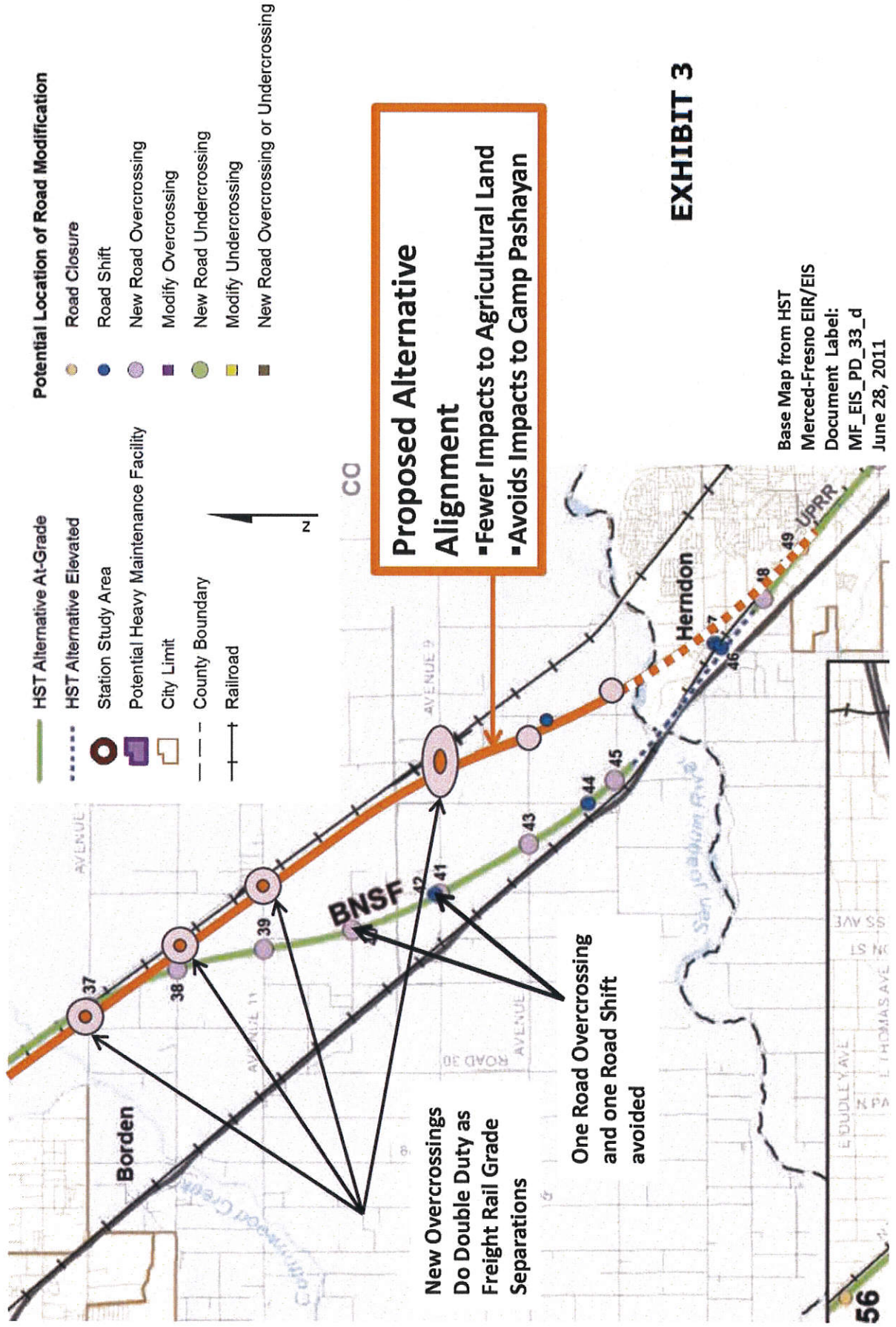
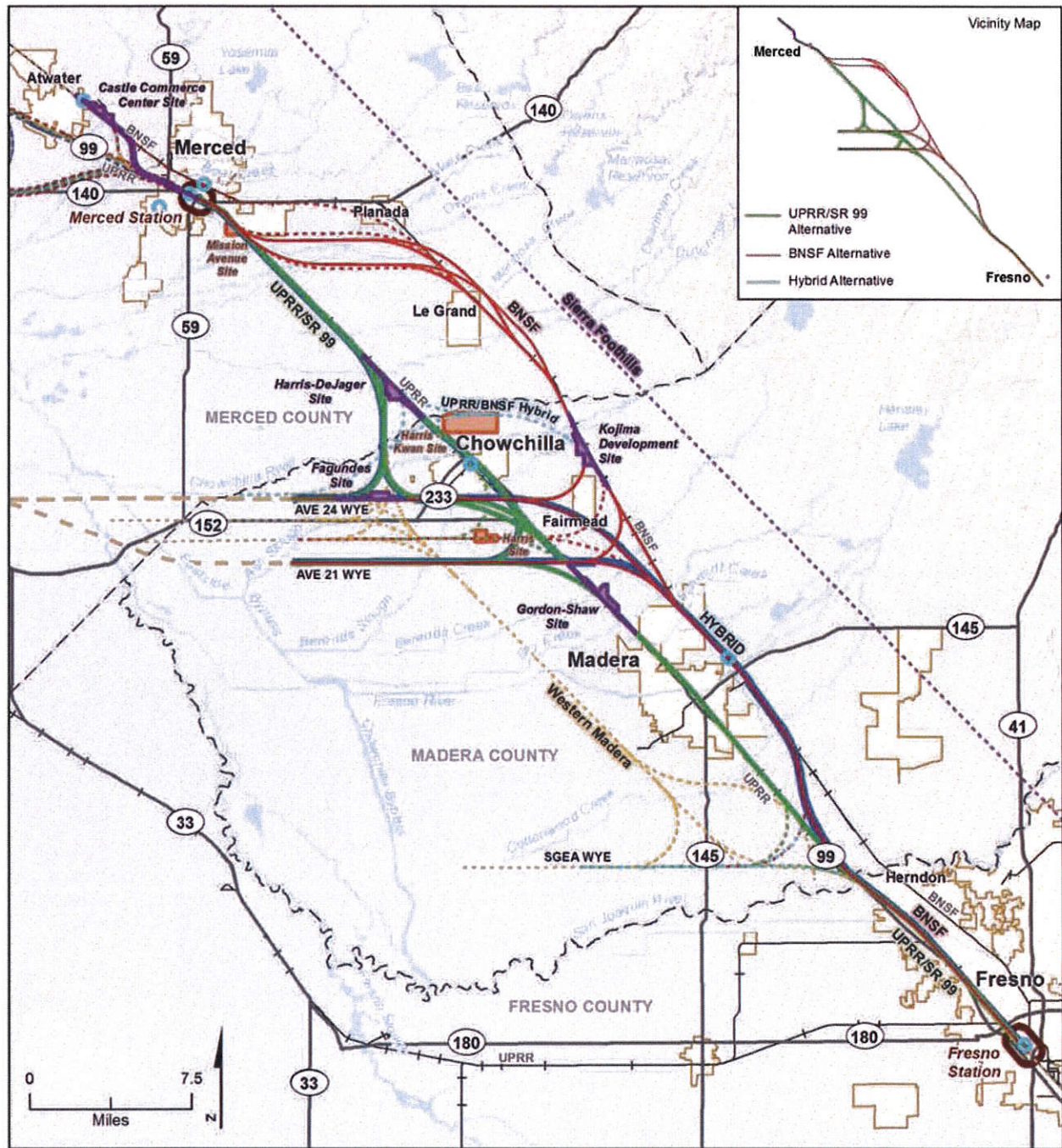


EXHIBIT 1



Comments on High Speed Train Merced-Fresno Draft EIR/EIS Proposed Alignment Alternative at San Joaquin River Crossing





MF_EIS_PD_25 Jul 08, 2011

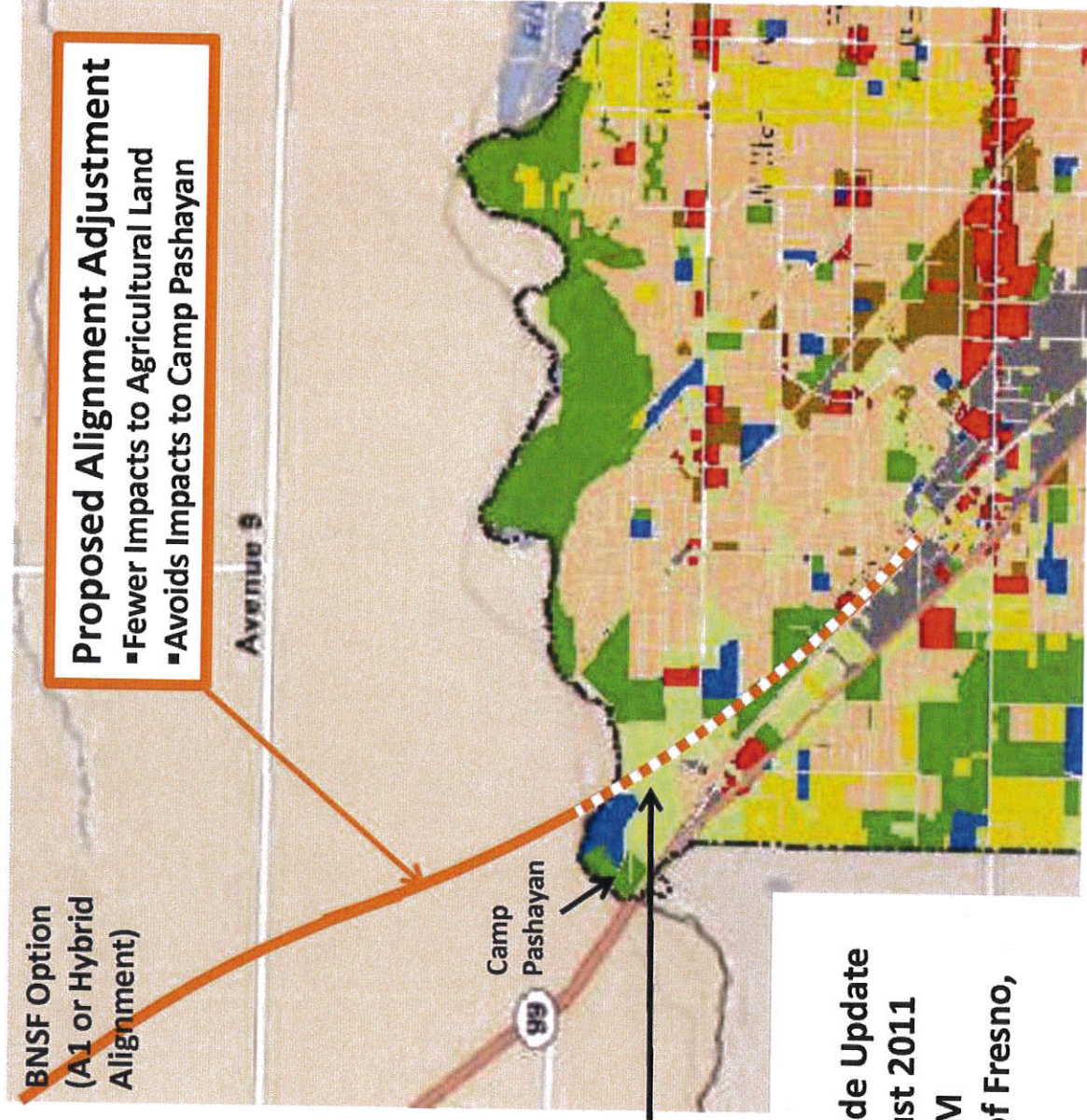
Figure 2-19
Potential Alternatives Considered
During Screening

EXHIBIT 5

BNSF Alternative (A1 or Hybrid Alignment) Approx. Location of HST Design Options 4 & 6* Overlayed on Fresno Existing Land Use Map

*Reference for Design Options 4 and 6:
CALIFORNIA HIGH-SPEED TRAIN
PROJECT EIR/EIS
PRELIMINARY ALTERNATIVES ANALYSIS
REPORT
MERCED TO FRESNO SECTION
Page 12

Figure 5: Merced to Fresno Section EIR/EIS
Initial Range of Alternatives



Alignment
through currently
vacant land in
NW Fresno

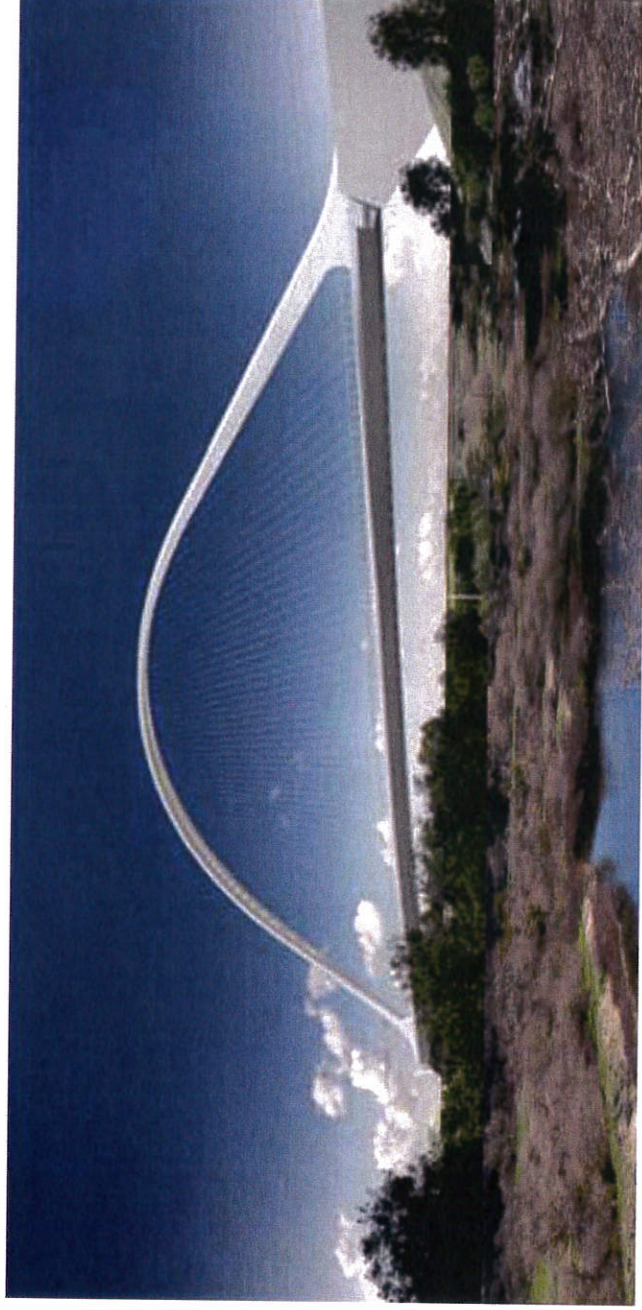
Existing Land Use Map Source:
City of Fresno General Plan & Code Update
Existing Conditions Report, August 2011
Existing Land Use GIS layer, DARM
Long Range Planning Staff, City of Fresno,
2010

EXHIBIT 6

Example of a bridge over
existing water features.

CALIFORNIA HIGH-SPEED TRAIN PROJECT EIR/EIS
PRELIMINARY ALTERNATIVES ANALYSIS REPORT
MERCED TO FRESNO SECTION

Page 29
Figure 24b: Alternative A2 – UPRR/SR 99, Madera
and Fresno Vicinities



High Speed Train
Signature Bridge
Design
San Joaquin River
Crossing

**Figure 2.3-2: Initial Phase
Corridors (Commission Studies, 1996)**



Figure 2.3-3: Corridors for Continued Consideration (Commission Studies, 1996)



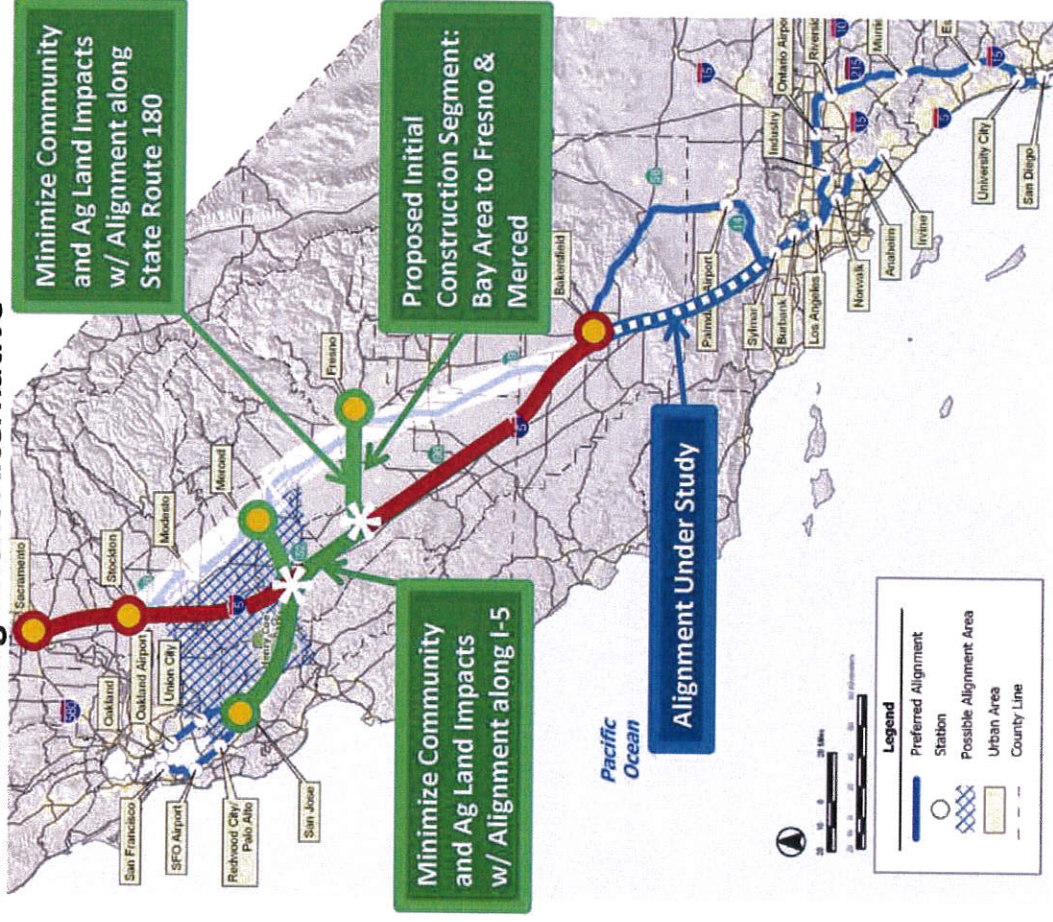
EXHIBIT 8

Challenging the myth that an Interstate 5 High Speed Train Alignment bypasses Central Valley cities

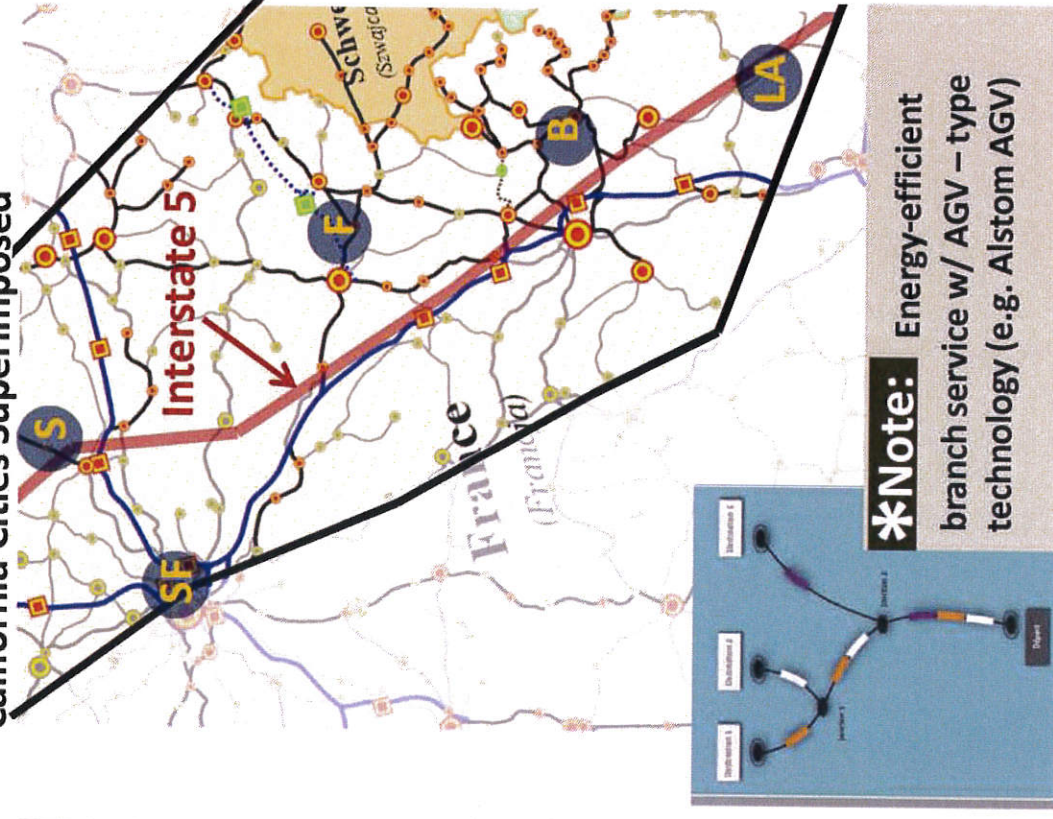
Alternative A

High Speed Train

I-5 "Trunk" Alignment Alternative



TGV (France) Route Map w/ California Cities Superimposed

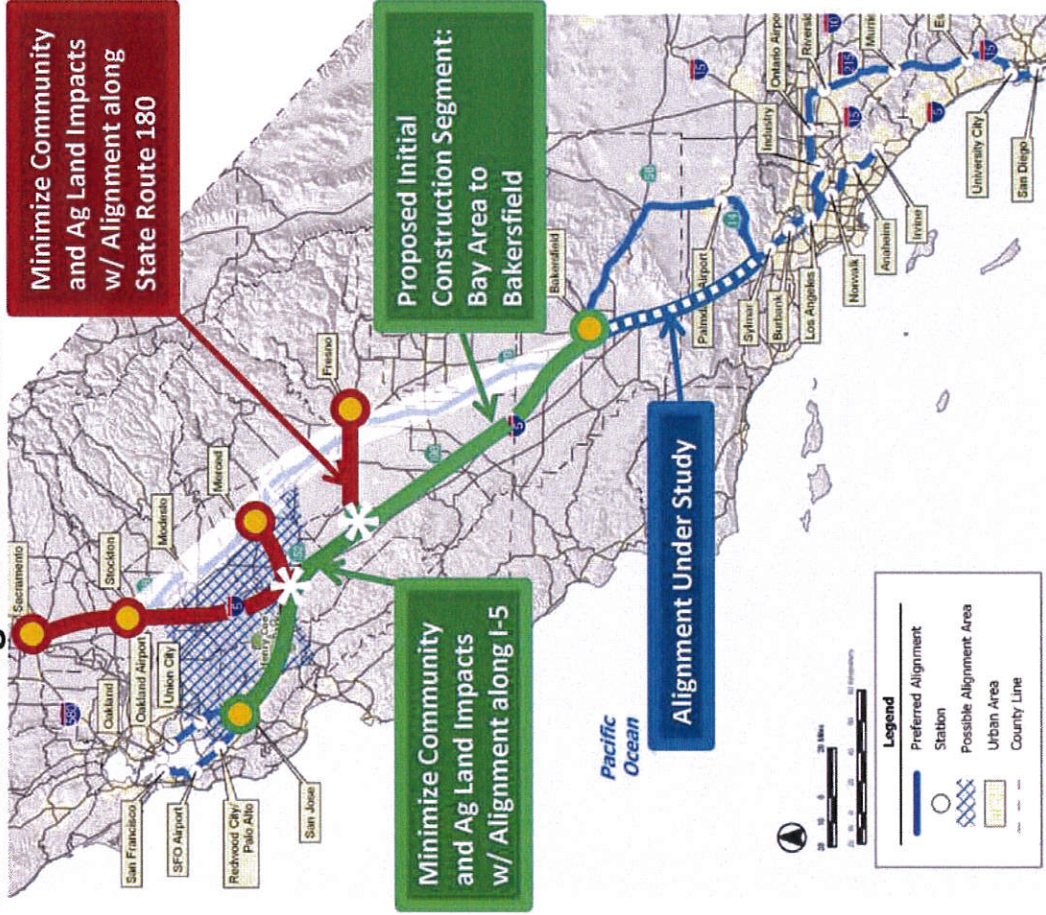


Challenging the myth that an Interstate 5 High Speed Train Alignment bypasses Central Valley cities

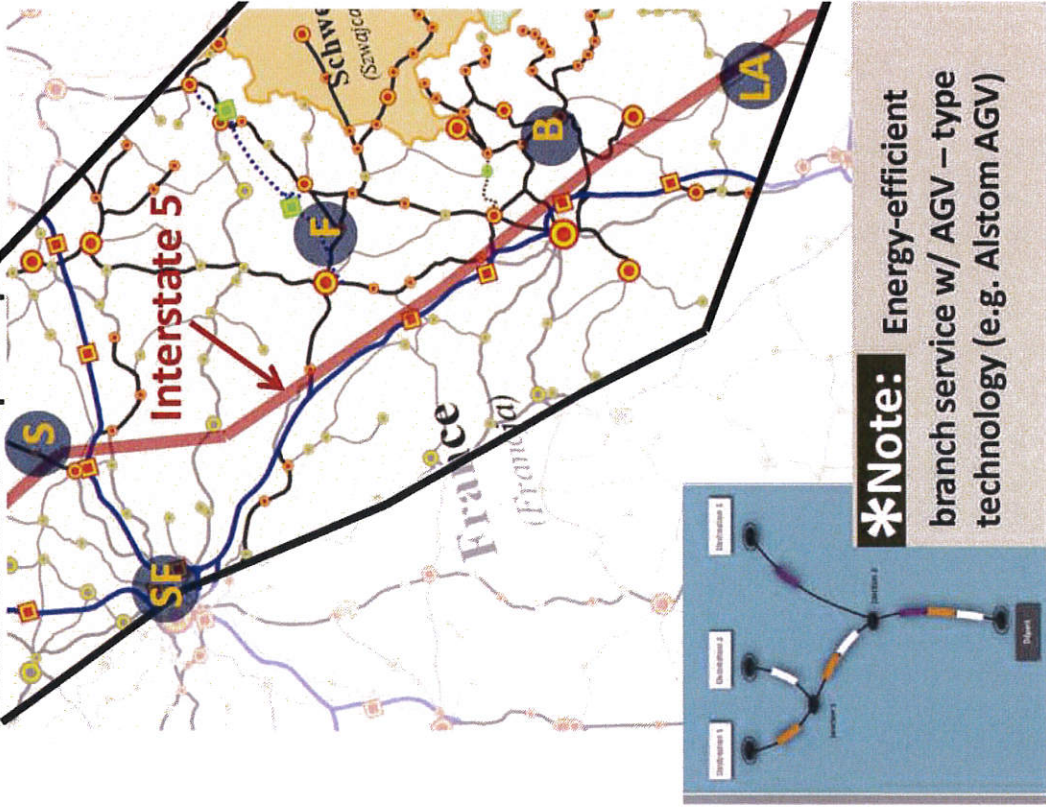
Alternative B

High Speed Train

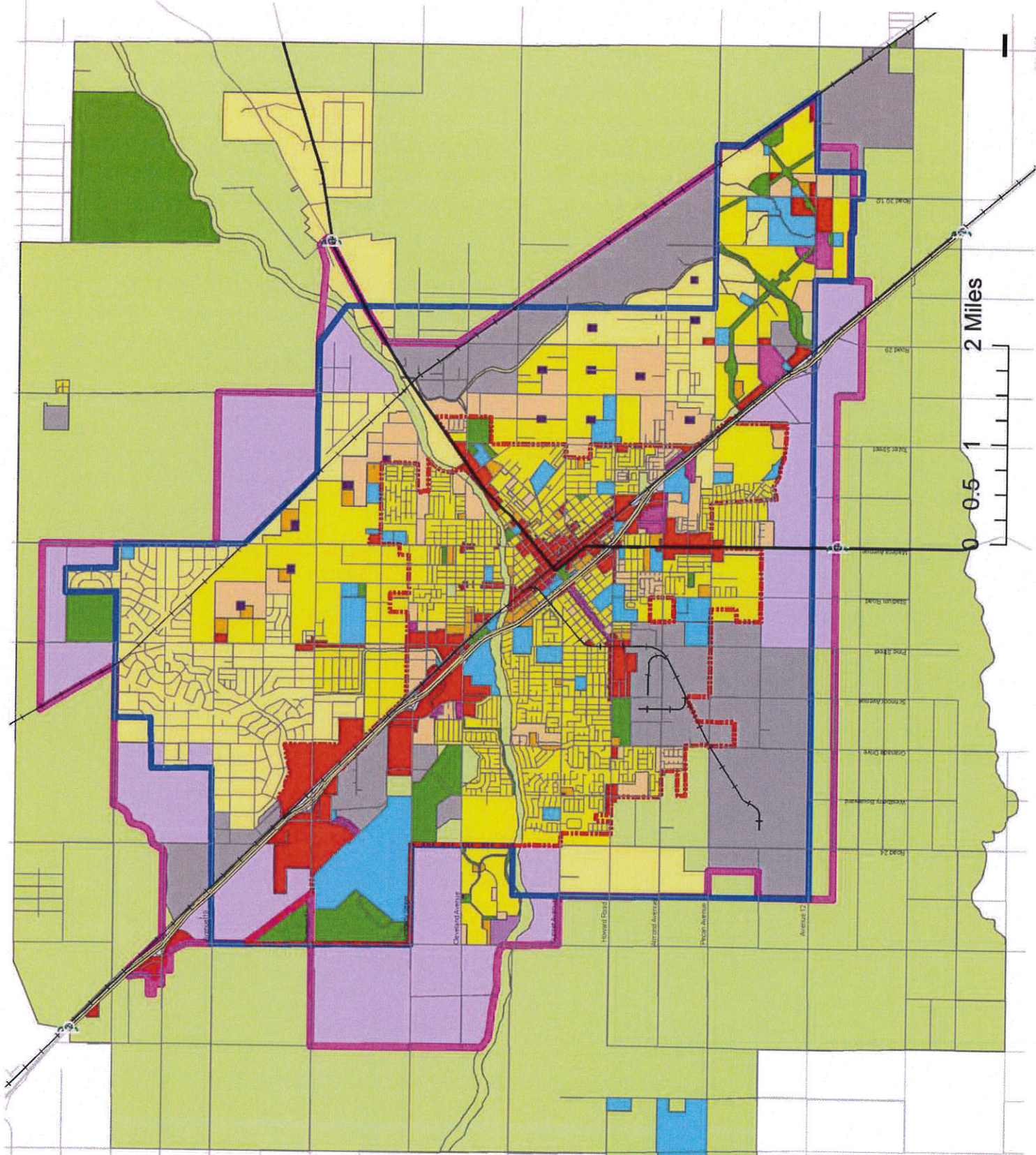
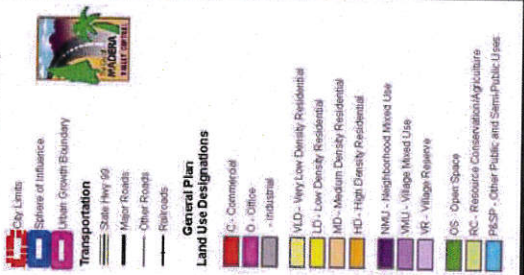
I-5 "Trunk" Alignment Alternative

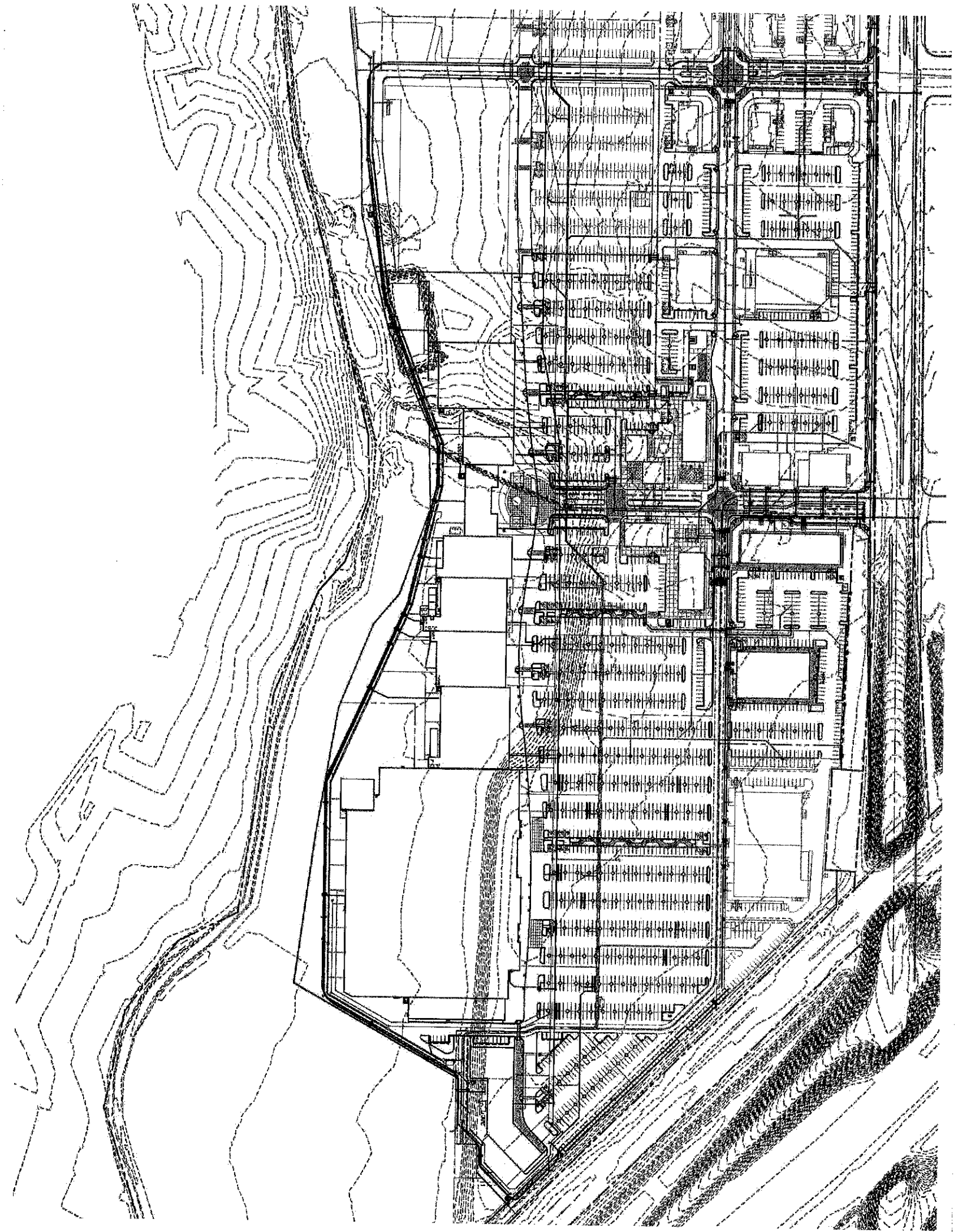


TGV (France) Route Map w/
California Cities Superimposed



City of Madera General Plan Land Use Map





THE ZELMAN COMPANIES

515 SOUTH FIGUEROA STREET, SUITE 1230 • LOS ANGELES, CA 90071 • TELEPHONE (213) 533-8100 • FAX (213) 533-8118

May 4, 2010

Mr. Curt Pringle
Chairman
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Madera County

Dear Chairman Pringle,

We are writing to express our concerns about the proposed A-2 alignment for the High Speed Rail (HSR) through Madera County.

Zelman Madera, LLC, acquired an approximately 100 acre site in the northeast quadrant of SR99 and Avenue 17 in July 2007. Zelman entitled this site for an 800,000 square foot shopping center and the site was annexed into the City of Madera. If the A-2 alignment is selected it will destroy Madera Town Center, our proposed shopping center.

Some of the key facts about Madera Town Center are summarized below:

- Over \$100M total investment in retail power center planned.
- \$2.3M in annual sales tax revenues, once fully operational, and substantial property tax generator.
- In excess of 1,000 full and part time jobs will be created upon project completion.
- \$3M EDA grant awarded for off site infrastructure construction, which Zelman is planning to match with \$3M for a total investment of \$6M.

We are hopeful that the HSR Commission will recognize the significant detrimental impacts that the A-2 alignment will have not only on our proposed project, Madera Town Center, but the entire community of Madera as well.

Thank you and please contact me with any questions.

Sincerely

ZELMAN MADERA, LLC


Ben Reiling
CEO



415 454 8868
x132

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922
January 5, 2009

REPLY TO
ATTENTION OF

Regulatory Division (SPK-200701923)

Ms. Tracey Brownfield
Zelman Madera, LLC,
Zelman Development Company
515 South Figueroa Street, Suite 1230
Los Angeles, California 90071-3329

Dear Ms. Brownfield:

We are responding to your consultant's request, on your behalf, for an approved jurisdictional determination for the Madera Town Center Project site. This approximately 98.6-acre site is located in Section 3, Township 11 South, Range 17 East, MDBM, Latitude 36° 59' 55.0118" North, Longitude 120° 5' 49.5507" West, in Madera, Madera County, California.

Based on available information, we concur with the estimate of waters of the United States, as depicted on WRA's July 15, 2008, revised *Madera Town Center Section 404 Jurisdictional Areas* drawing. Approximately 6.96-acres of waters of the United States are present within the site boundaries shown on the above drawing. These waters, including a portion of Schmidt Creek and adjacent wetlands "A and B", are regulated under Section 404 of the Clean Water Act, since they are tributary, adjacent to tributaries, and/or have a significant nexus to navigable waters of the United States.

Additionally, the approximately 0.19-acres of aquatic features identified as "Isolated Wetlands C and D" on the above drawing are intrastate isolated waters with no apparent interstate or foreign commerce connection. The approximately 0.93-acres of aquatic features identified as "Waste Water Treatment Ponds 1 and 2" appear to have been constructed entirely in uplands to meet Clean Water requirements and have not been abandoned. As such, these waters are not currently regulated by the Corps of Engineers. This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities. In particular, you may need authorization from the California State Water Resources Control Board and/or the U.S. Fish and Wildlife Service.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331.

A Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form is enclosed. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Administrative Appeal Review Officer, Army

Corps of Engineers, South Pacific Division, CESP-D-PDS-O, 1455 Market Street, San Francisco, California 94103-1399, Telephone: 415-503-6574, FAX: 415-503-6646.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

We appreciate your feedback. At your earliest convenience, please complete our customer survey at http://www.spk.usace.army.mil/customer_survey.html. Your passcode is "conigliaro".

Please refer to identification number SPK-200701923 in any correspondence concerning this project. If you have any questions, please contact Mr. Mike Finan at our Regulatory Division, email michael.c.finan@usace.army.mil, or telephone 916 557 5324. You may also use our website: www.spk.usace.army.mil/regulatory.html.

Sincerely,

ORIGINAL SIGNED

Kathleen Dadey, PhD
Chief, California South Branch

Enclosures

Copy Furnished without enclosures:

Mr. Tim Degraff, WRA Environmental Consultants, 2169-G East Francisco Boulevard, San Rafael, California 94901

Mr. Dale Harvey, Central Valley Regional Water Quality Control Board, 1685 E Street, Fresno, California 93706

Mr. Ken Sanchez, U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, W-2605, Sacramento, California 95825

Mr. Rob Leidy, U.S. Environmental Protection Agency, Region IX, Wetlands Regulatory Office, (WTR-8), 75 Hawthorne Street, San Francisco, California 94105

FINAN/dd
DADEY

EXHIBIT 15

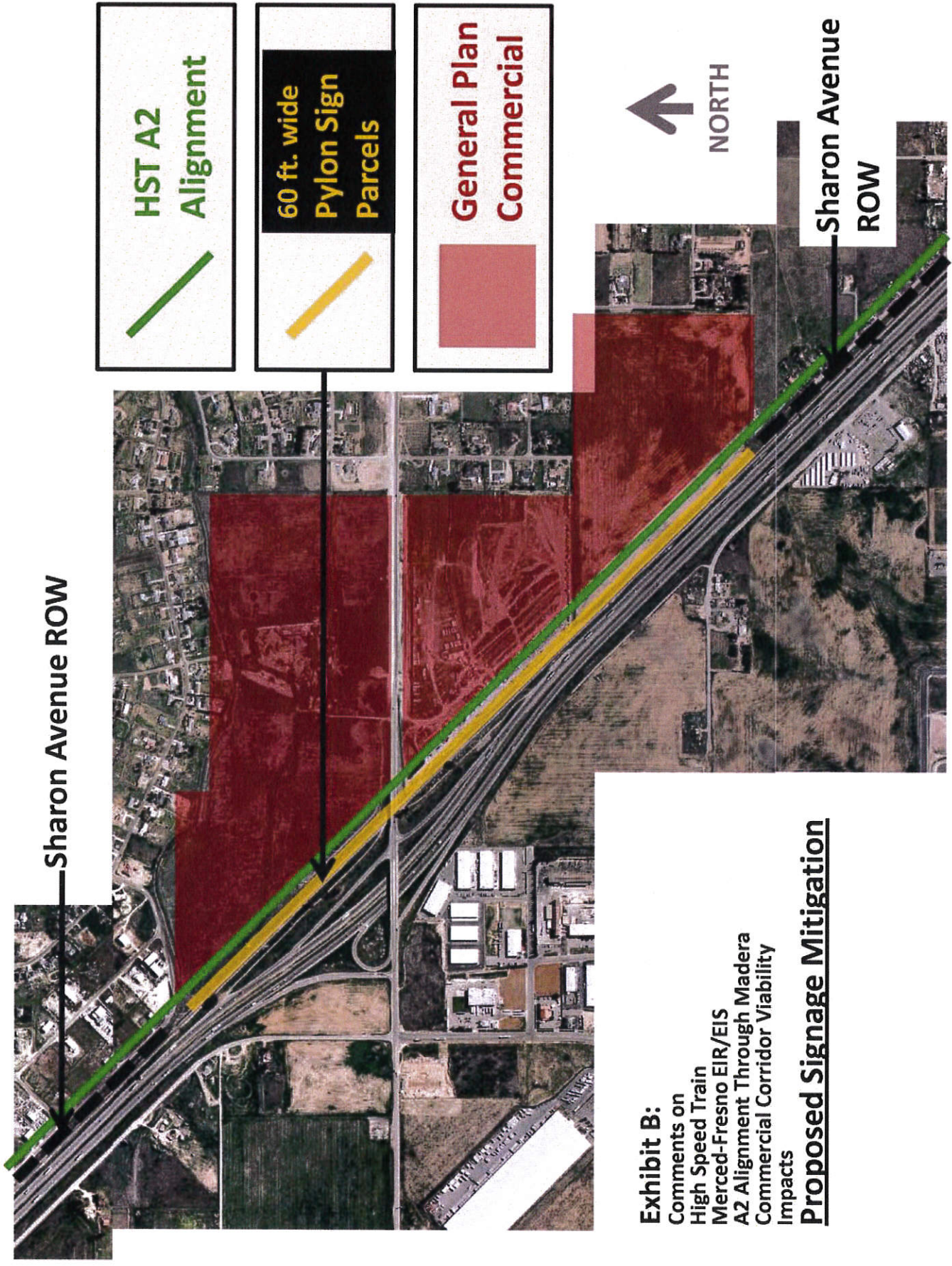


Exhibit B:
Comments on
High Speed Train
Merced-Fresno EIR/EIS
A2 Alignment Through Madera
Commercial Corridor Viability
Impacts
Proposed Signage Mitigation

EXHIBIT 17

High Speed Train
Merced-Fresno EIR/EIS
A2 Alignment Through Madera
Sharon Avenue Access
**Parcel Access
Mitigation**



Gilroy Plans Launch of HSR Study

Mar 14th, 2011

The City of Gilroy is about to launch its HSR study, which will examine vertical alignment options as well as where a station should go. If you've been following along, you'd know that there are two proposals on the table: a downtown station along the existing tracks, at or very near the Caltrain station; and a greenfield station in east Gilroy. Here's what the [Gilroy Dispatch](#) had to say about the study:

A study of two proposed locations for a high-speed rail station in Gilroy will address concerns of traffic circulation, parking, land use, economic impacts and other factors, a city official said during a South County Joint Planning Advisory Committee meeting Thursday night in Morgan Hill.

David Bischoff, Gilroy director of planning and environmental services, told the committee the study would also focus on the pros and cons of three different track alignments: at-grade, aerial and trenched.

The study, which is funded by a \$150,000 matching grant from the Valley Transportation Authority, will go before the Gilroy City Council, which then will send a station recommendation to the rail authority based on the knowledge gained from the study, Bischoff said.

EXHIBIT 18

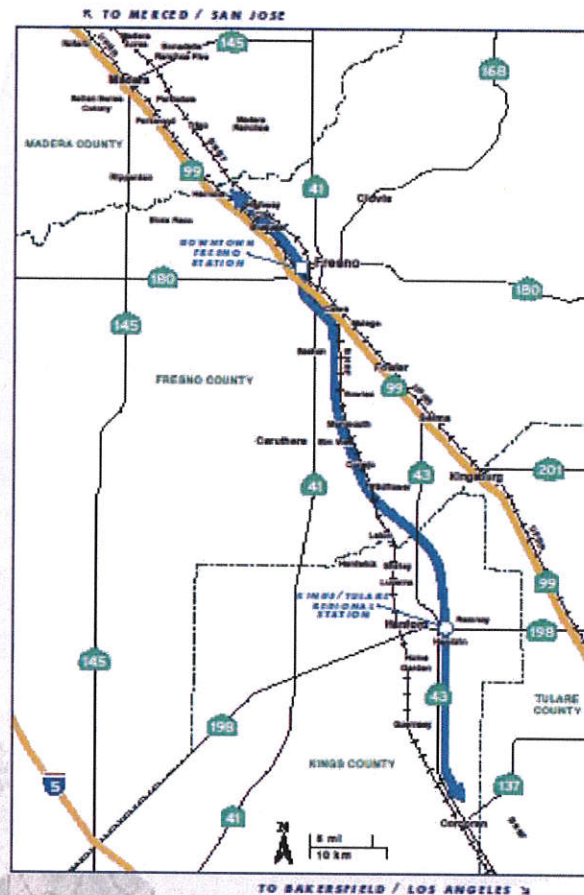
EXHIBIT 19

CALIFORNIA
High-Speed Rail







BAY AREA TO LOS ANGELES: STARTING IN THE CENTRAL VALLEY

The Start of a Statewide System:

With only the Central Valley eligible for initial federal construction funding, high-speed rail engineers have recommended* that the Authority's Board of Directors begin construction with these first 65 miles. Starting from near where the trains will turn west toward San Jose, south through Fresno toward Bakersfield, these tracks would form the backbone of the statewide system connecting the Bay Area to Los Angeles, starting in the Central Valley.



LEGEND

-  **Planned Station**
 **High-Speed Rail Track**
 **Other Railroads**
 **Major Highways**
 **Minor Highways**
 **County Boundaries**

*This recommendation will be presented at the 12/2/10 CHSRA Board meeting and will be subject to Board approval.

www.cahighspeedrail.ca.gov

Prepared Nov. 2010



**CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY**

BRIEFING: JULY 2011 BOARD MEETING AGENDA ITEM #7

TO: Chairman Umberg and Committee Members

FROM: Roelof van Ark: CEO / Hans Van Winkle: Program Director PMT

DATE: July 14, 2011

RE: Initial Operating Segment (Overview of the Concepts)

Background

The California High Speed Rail Authority has secured a total of \$3.3 Billion dollars of Federal funds for the construction of an Initial Construction Section [ICS]. The Federal funding was directed to the Central Valley and was matched by Proposition 1A funds, bringing the total funding available for this initial construction to \$5.9 Billion.

The selection of the ICS was the first step in a continuous process which should logically lead to the continued construction of the alignment, until the whole network is interconnected.

Discussion

The typical implementation of High Speed Rail Systems throughout the world has taken place through a series of logical sequential steps. The proposed phased development of the California HSR system is consistent with those models, and takes into account the experiences in France, Germany, the UK, Spain, Japan, etc.

The construction of the Initial Construction Section (ICS) is the first, and only the first, but crucial step for a true high speed rail system in California. The ICS will provide critical civil infrastructure designed and constructed for 220 mph operating speeds and will be the backbone of the ultimate California High Speed Rail System. As required by the federal grants the ICS will also have the possibility to offer "independent utility". That is, it will be available to provide enhanced intercity high-speed passenger rail service if for any reason the ultimate full Real High-Speed Rail system is not built out fully.

A high speed rail system is complex and involves multiple elements that must be fully integrated and tested under various operating scenarios before being placed into revenue service. This can only be done on a dedicated track that is capable of replicating the actual operating scenarios at the actual operating speeds. It should be remembered that all the core technology for Real high-speed rail systems (rolling stock, signaling, electrification, track, turn-outs, switch-machines etc.) are not available in the USA, and would have to be transferred to the USA based on "Technology transfer agreements" so that manufacturing in the USA will take place to meet the "Buy-America"

requirements. All these sub-systems, and the system as a whole, need to be tested at full capacity and at design speeds, before safe operation can be started. A test facility is required to make this possible. Currently there is no such test track in the U.S. The minimum required length for an effective test track for 220 mph operating speeds is 120 miles which allows trains to reach the maximum operating speed, remain at this speed for a sustained (albeit short) period and then decelerate and come to a stop before the end of the test track. This length is based on investigations done together with the suppliers and operators of high-speed rail equipment, allowing for sufficient sustained testing at 220 mph. The Merced to Bakersfield section meets the requirements for such a test track. The total length is approximately 170 miles with passenger stations at the end of the Test Track (Merced and Bakersfield) and with 2 intermediate stations (Fresno and Kings/Tulare). This allows for effective and comprehensive testing of the various operating scenarios. Accordingly, the logical progression is to extend the current ICS to Merced and to Bakersfield and to install the Core System elements (electrification, signaling, communications, etc.) to form the test track.

The test track will be used to verify the integration of the various high speed components, to train the operators and the maintainers, etc. to ensure that the completed system is safe, reliable with properly trained and fully competent staff to enter revenue service.

While the test track operations are on-going, the construction of the extension from the ICS/Test track will continue in parallel to prepare for the Initial Operating Segments (IOS) which will be used to carry passengers in revenue service as soon as the systems are tested and the extended tracks are completed. The California population centers are shown in Figure 1; clearly, the goal is to connect the Bay Area to the L.A. Basin as quickly as possible. This will involve an intermediate stage: extension of the ICS/test track to connect the Central Valley first to either the Bay Area or to the L.A. Basin. The assessment of both of the alternatives will be described in the Business Plan to be finalized by January 2012 (draft by October 14, 2011).

Recommendation

The start of true high speed rail will occur in the Central Valley between Merced and Bakersfield that is capable of 220 mph operations, and will additionally serve as a test track and will form the backbone of the California High Speed Rail system. This is referred to as the Initial Construction Section (ICS). The test track will be used to demonstrate that the elements of the high speed rail system are fully integrated, are safe and reliable, and that the operating/maintenance staff is properly trained and proficient before the system enters revenue service. It will also have independent utility as an enhancement to high-speed intercity passenger rail service.

The ICS/Test Track will be extended to form an Initial Operating Section (IOS) that we will operate Real high-speed trains in revenue service up to 220 MPH. The goal is to extend the ICS/Test track to connect with the Bay Area or to connect with the San Fernando Valley (Los Angeles Basin) as a first phase, and then to connect the Bay Area with the L.A. Basin to form Bay-to-Basin connectivity. The recommendation on the sequencing of the extension from the ICS/Test Track to the IOS will be further analyzed and described in the 2012 Business Plan. Final sequencing of either the southern extension or the north-western extension will be submitted to the board at a later date for decision, and will be subject to funding availability, as well as other selection criteria.

Attachments:

- ✓ Powerpoint Initial Operating Section (IOS)

Corridor Service Name: CA-MERCED/FRESNOHSR-DESIGN/BUILD *Date of Submission:* 10/01/2009 *Version Number:* 1

B. Corridor Service Narrative

(1) Corridor Service Name: CA-MERCED/FRESNOHSR-DESIGN/BUILD

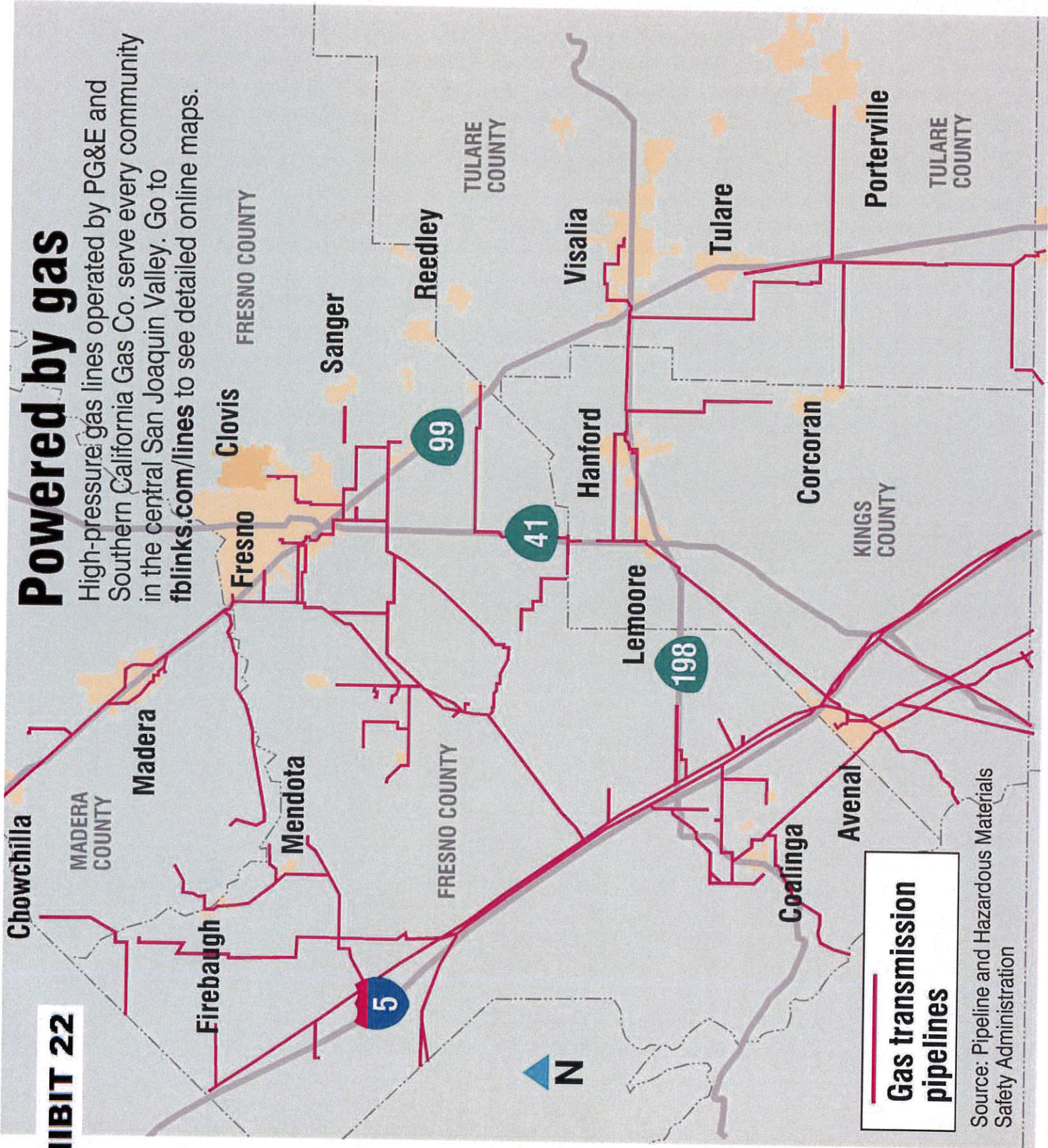
MERCED-FRESNO OVERVIEW

This application proposes to construct HSR infrastructure including track but not electrification and other HSR "systems" for 220 mph operation in the 50-mile section between Merced and Fresno. HSR tracks would parallel the Union Pacific Railroad (UPRR) route and State Route (SR) 99. The proposal includes ROW acquisition, grade separations, SR99 interchange modifications, utility relocation, environmental mitigation, earthwork, guideway structures, and track. Independent utility is provided by constructing approximately 50 miles of new high-speed double-track railroad between Merced and Fresno allowing connection into conventional rail passenger services at each end. Undertaking the highway modifications and grade separations of the UPRR early in the CHST Project would provide immediate safety and traffic-flow benefits complimentary to Caltrans' "SR 99 Corridor Program" under the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006.

EXHIBIT 21

Powered by gas

High-pressure gas lines operated by PG&E and Southern California Gas Co. serve every community in the central San Joaquin Valley. Go to fblinks.com/lines to see detailed online maps.





Coming into Madera we saw the remains of a Union Pacific derailment.

Scrapping this covered hopper car on the spot.

Train derailment in Madera

**Sunday, February 28, 2010
FRESNO, Calif. (KFSN) -- Crews were working to re-open railroad tracks in Madera after a train derailment. 15 Union Pacific cars derailed Saturday morning just before nine.**

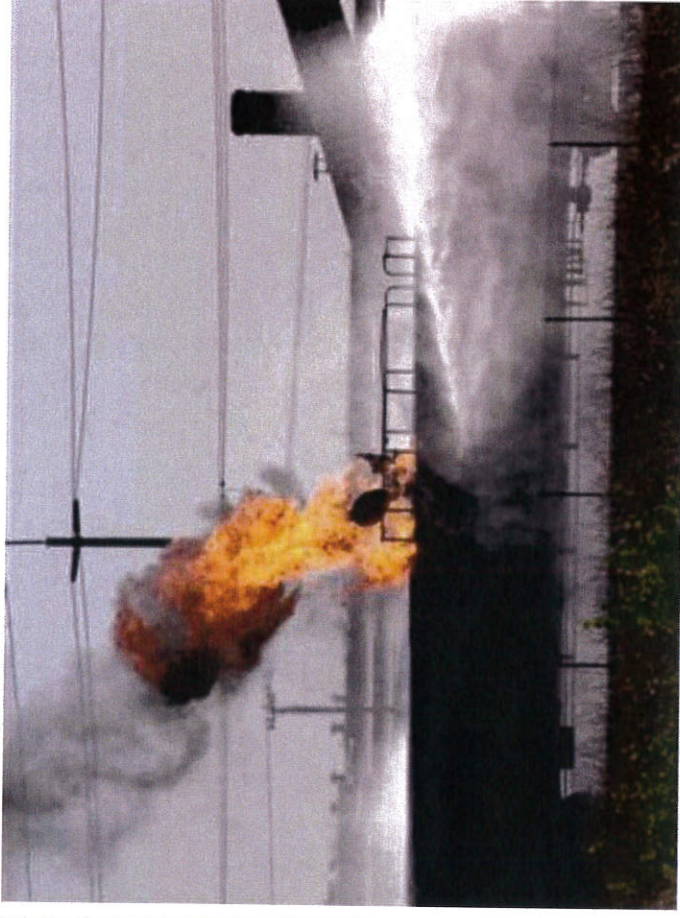
No one was hurt, but grain spilled from the crashed cars.

Heavy machinery was brought in to help clear the accident.

**The cause of the derailment is still under investigation.
(Copyright ©2011 KFSN-TV/DT. All Rights Reserved.)**



Two other pictures of the remains of the derailment.



Risk of blast at California rail car fire has increased

Wed, 08/24/2011 - 10:06am | The Associated Press

LINCOLN, Calif. (AP) — The risk of an explosion at a rail car fire in northern California has increased after the propane tank that is burning showed signs of melting, a fire official said on Wednesday.

Despite firefighters' best efforts to cool the tanker with water, it appears to be coming apart, California Department of Forestry and Fire Protection spokesman Daniel Berlant told KCRA-TV.

The 29,000-gallon tanker loaded with liquid propane caught fire midday Tuesday at a Northern Propane Energy yard in Lincoln, a city of 40,000 north of Sacramento. Fears that it would explode prompted the evacuation of thousands of homes in the area. An explosion could cause a fireball that consumed blocks and hurl large pieces of metal up to a half-mile away, fire officials said.

Berlant said a crack in the tanker would greatly increase the possibility of an explosion. Firefighters on Tuesday set up four fixed hoses to soak the tanker and to keep its temperature down as the propane burns off.

Trying to directly extinguish the flames shooting into the air from a vent could create a propane gas cloud that could ignite into a fireball, Berlant said.

"Our fear is that not only does that rail car tank explode, but so do the tanks around it and with about a half million gallons of propane in that field," he told KXTV-TV. A gas pipeline also runs through the affected area, authorities said.

The American Red Cross has set up three evacuation centers to help people whose homes are inside the mandatory evacuation area, which has been designated as within one mile of the rail car.

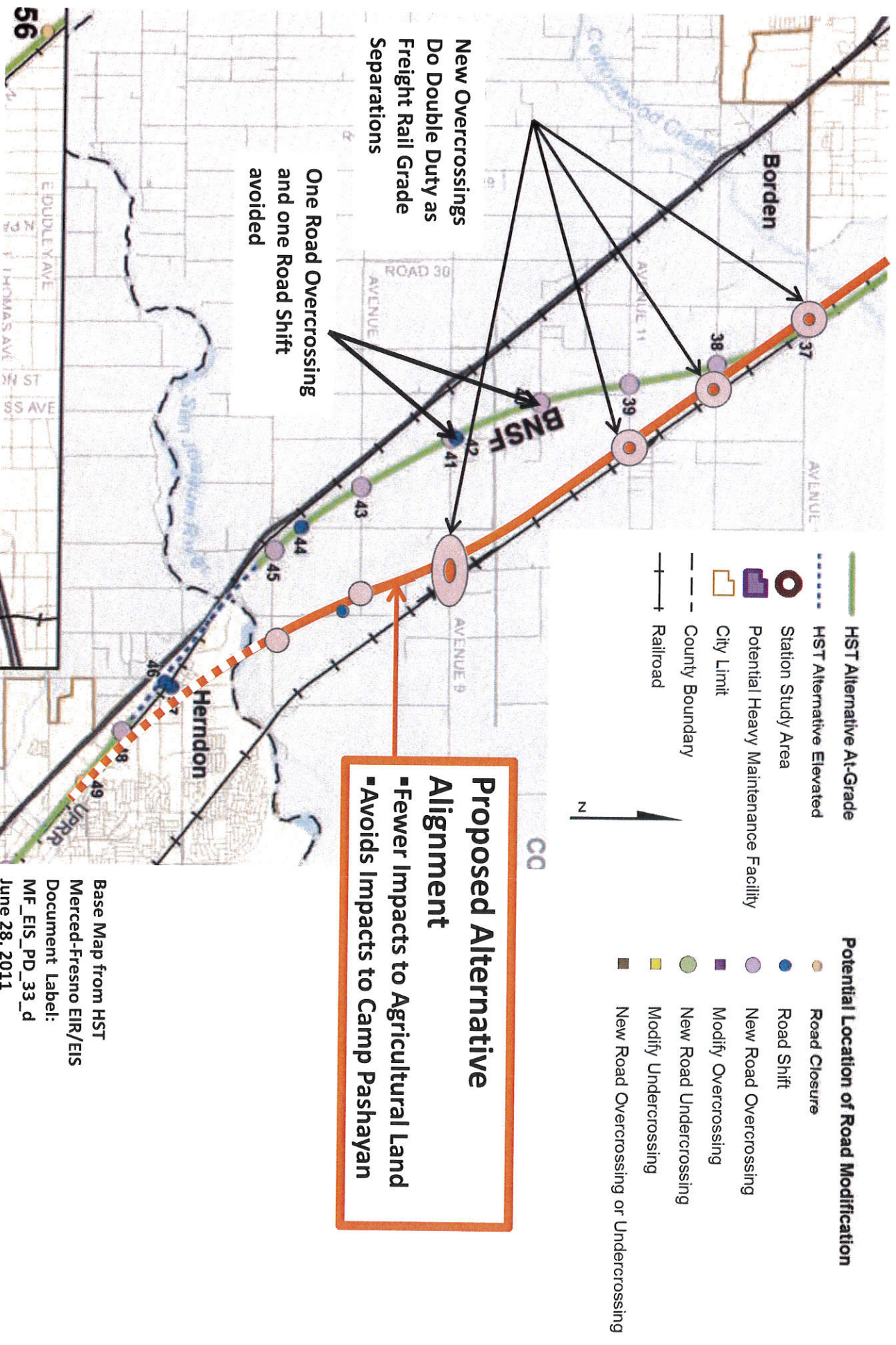
Only about 70 percent of those who live inside the evacuation zone had actually left by late Tuesday, Berlant estimated.

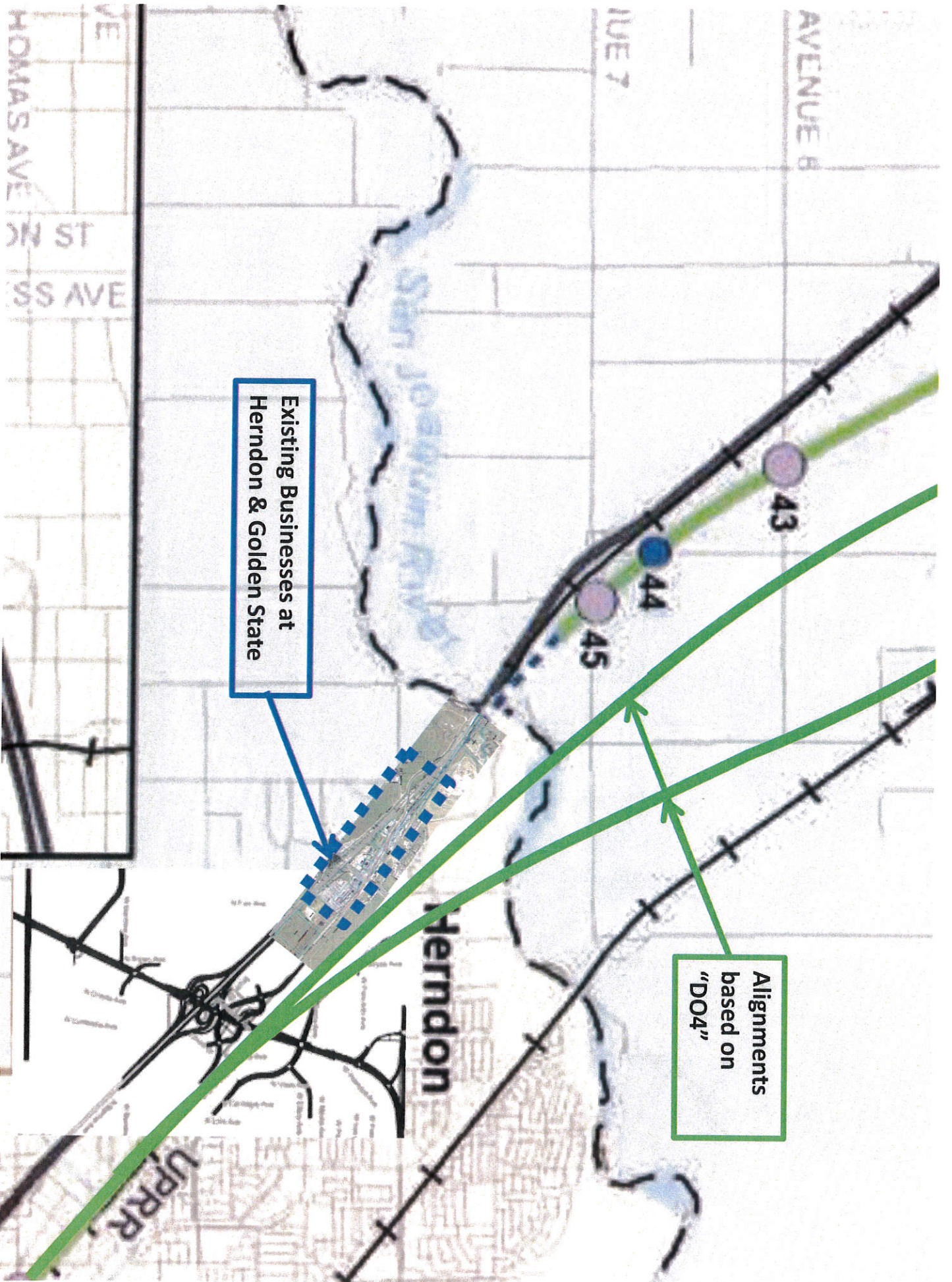
"Anybody who chooses to stay behind is risking their life and the lives of their family by doing so," he told KXTV.

Highway 65, a major commuter thoroughfare between Sacramento and Lincoln, was closed Tuesday near the blaze, the California Highway Patrol said. Authorities didn't know when the road would reopen.

It was unclear how the tanker caught fire. A worker who was tending to the tanker was hurt and transported to a local hospital, although details on the extent of the injuries weren't available.

Comments on High Speed Train Merced-Fresno Draft EIR/EIS Proposed Alignment Alternative at San Joaquin River Crossing





2

High-speed rail's low operating costs challenged

By Lance Williams - California Watch

Monday, Apr. 30, 2012 | 02:08 PM

By hitting the reset button, Gov. Jerry Brown bought some time for the embattled California high-speed rail plan.

In recent months, the CEO of the controversial project resigned. Brown installed Dan Richard, an official with political and transportation industry connections, as new board chairman.

More importantly, the California High-Speed Rail Authority dramatically revamped its business plan, slashing as much as \$30 billion from the price tag for building the San Francisco-to-Los Angeles system -- from \$98 billion to as little as \$68 billion.

But none of those changes addressed what a panel of outside financial experts has called "the elephant in the room" for California's proposed high-speed rail system -- its extraordinarily low projected operating costs.

If the bullet train project is to pencil out, it must operate far more economically than any high-speed rail system in the world, according to the experts, who include former World Bank executive William Grindley.

Unless these extraordinary economies actually are achieved, the train will require alarmingly high annual operating subsidies "forever," as the experts wrote in a report last month. The annual operating deficit could top \$2 billion, they wrote.

The rail authority disputes the experts' conclusions. The issue is of crucial importance, because by law, the state is forbidden from subsidizing the bullet train.

"We showed that their [projected] operating costs and revenue costs per mile were significantly lower than what anybody anywhere in the world had ever been able to achieve," said Alan Bushell, a retired technology executive and co-author of the study.

Other authors are retired Stanford University economics professor Alain Enthoven and Silicon Valley financial expert William Warren.

The rail authority's business plans indicate that the bullet train would cost about 10 cents per passenger mile to operate, Bushell said in a recent interview.

That means it would cost 10 cents to carry one passenger one mile on the rail system. But international high-speed rail systems cost on average about 43 cents per passenger mile, he said.

"They have to have worked some incredible operating efficiencies to justify those kinds of costs," Bushell said of California's rail planners. "I doubt they have."

The financial experts' study reviewed operating cost data for international bullet trains, including reports compiled by the Spanish banking group BBVA.

The experts found the world's lowest operating costs were in Italy -- about 34 cents per passenger mile. Highest costs were in Germany and Japan -- 50 cents per passenger mile. In the U.S., Amtrak's Acela Express, a high-speed line linking Washington, D.C., and Boston, costs about 44 cents.

The rail authority "insists loudly that the High Speed Rail service will be run at a profit from an operating point of view," the experts wrote. "... They reach this conclusion because they dramatically understate operating costs, which our analysis shows will be much higher."

The rail authority contends that its operating cost projections are sound, derived from a sophisticated computer model. The system will turn a profit and won't require operating subsidies, rail officials insist.

In a statement, rail board member Mike Rossi said the bullet train's planners used conservative assumptions to verify that the rail line will operate profitably.

Regarding the outside experts' critique, Rossi said, "We have met with the authors of the report in an attempt to correct their flawed assumptions and conclusions."

That's not precisely true, countered Grindley.

He said he and his co-authors have repeatedly asked the rail authority for the data that underlies their calculation of the bullet train's projected operating costs. The rail authority hasn't made the information public, he said.

"Our deduction is that their cost calculation must be either eliminate items that are included in the operating and maintenance costs [of the foreign rail lines] or they have downgraded the costs," he said. "Or both."

ISR Operations and Maintenance Costs in Europe, 2002

Operating Costs

75% Load Factor
2010 \$ per
passenger mile

\$0.31
\$0.26
\$0.50
\$0.42
\$0.60
\$0.35
\$0.41
\$0.41
\$0.54
\$0.52
\$0.52

\$4.84
\$0.44

Maintenance Costs

2002 Euro per
seat- KM
75% Load Factor
2010 \$ per
passenger mile

0.0080
0.0050
0.0110
0.0090
0.0090
0.0090
0.0100
0.0140
0.0180
0.0230
0.0180

0.1340
0.0122

seat - mile
0.019604

\$ per seat mile
\$0.0264

passenger mile in 2002\$
\$ per passenger mile in 2002\$
\$0.0352

passenger mile in 2010\$
\$ per passenger mile in 2010\$
\$0.04

passenger \$0.48

Combined Operations
and Maintenance Costs

75% Load Factor
2010 \$ per
passenger mile

\$0.34	
\$0.28	Mature Systems \$0.44
\$0.54	
\$0.45	
\$0.63	
\$0.38	
\$0.44	
\$0.46	
\$0.60	New Systems \$0.59
\$0.59	
\$0.58	

\$5.29
\$0.48

Operating Costs and Margins from IOS North to Complete Phase One

10\$'s			Million \$, in YOES's				
<u>2040</u>	<u>2050</u>	<u>2060</u>	<u>2025</u>	<u>2030</u>	<u>2040</u>	<u>2050</u>	<u>2060</u>
2,271	2,387	2,510	759	2,312	5,513	7,788	11,001
1,236	1,254	1,131	478	1,136	3,000	4,091	4,958
1,035	1,133	1,379	281	1,176	2,513	3,697	6,043
2,271	2,387	2,510	759	2,312	5,513	7,788	11,001
2,472	2,508	2,262	956	2,272	6,000	8,182	9,916
-201	-121	248	-197	40	-487	-395	1,085
Europe, the French (double deck) at \$0.31 per passenger mile							
2,271	2,387	2,510	759	2,312	5,513	7,788	11,001
3,708	3,763	3,393	1,434	3,408	9,000	12,274	14,875
-1,437	-1,375	-884	-675	-1,096	-3,487	-4,486	-3,873
of Europe and Japan, at \$0.44 per passenger mile							
2,271	2,387	2,510	759	2,312	5,513	7,788	11,001
4,944	5,017	4,524	1,912	4,543	12,000	16,365	19,833
-2,673	-2,629	-2,015	-1,153	-2,232	-6,487	-8,577	-8,831

3

The CHSRA Knows Their Proposed High-Speed Train Will Forever Need An Operating Subsidy

CHSRA was told several times that the proposed train's operating costs may be about three or four times more than their current projections.

March 17th 2012

THE AUTHORS

Alain C. Enthoven – Marriner S. Eccles Professor of Public and Private Management (emeritus), GSB Stanford; President, Litton Medical Products; Economist, Rand Corporation; President's Award for Distinguished Federal Civilian Service; Fellow American Academy of Arts and Sciences; Founder, Jackson Hole Group (BA Economics, Stanford; Rhodes Scholar–Oxford; PhD Economics, MIT)

William C. Grindley – World Bank; Associate Division Director, SRI International; Founder and CEO, Pacific Strategies, ret. (B Architecture, Clemson; Master of City Planning, MIT)

William H. Warren – Officer, US Navy. Forty years of Silicon Valley finance, sales and consulting experience and management, including CEO of several start-ups, Director/Officer at IBM, ROLM, Centigram, and Memorex (BA Political Science, Stanford; MBA, Stanford)

Alan H. Bushell – McKinsey & Co.; CEO/COO/CFO of several technology companies; ret. (BA Stellenbosch University, Chartered Accountant SA; MBA Harvard)

PUBLICATIONS – All available at www.cc-hsr.org

Major Reports on High Speed Rail by the Authors:

- The Financial Risks of California's Proposed High Speed Rail Project (Oct 2010)
- A Financial Analysis Of The Proposed California High-Speed Rail Project (Jun 2011)
- Revisiting Issues In the October 2010 Financial Risks Report (Sep 2011)
- Twelve Misleading Statements on Finance and Economic Issues in the CHSRA's 2012 Draft Business Plan (January 2012)
- California High-Speed Rail Authority's 2012 Draft Business Plan – Assessment: Still Not Investment Grade (January 2012)

Briefing Papers:

- Dubious Ridership Forecasts (Oct 2010)
- Six Myths Surrounding California's High-Speed Rail Project (Jan 2011)
- Seven Deadly Facts For California's High-Speed Rail Authority (Jan 2011)
- A Train To Nowhere But Bankruptcy (Feb 2011)
- Big Trouble For California's \$66 Billion Train (Mar 2011)
- Will The Train Benefit California's Middle Class? (Apr 2011)

Brief Notes: Twenty-three one page, single subject papers on various aspects of financial issues related to the proposed high-speed rail system, Oct 2010 to present

The Authors appreciate the untold hours spent by many citizens groups and individuals that formed this analysis. However, any fault found in this report is solely the responsibility of the Authors.

OVERVIEW

CHSRA insists loudly that the High Speed Rail service will be run at a profit from an operating point of view (not counting capital construction expenses); therefore HSR will not require operating subsidies. They reach this conclusion because they dramatically understate operating costs, which our analysis shows will be much higher.

The CHSRA Business Plans have correctly set their ticket pricing to be competitive with air travel and gasoline prices in California. As these competitive prices are lower than similar prices overseas, the CHSRA is forced to operate at a lower revenue per passenger mile rate (about 20 cents), compared to their international counterparts (at about 44 cents). Therefore, if the CHSRA operating costs do approach international rates of 40 to 50 cents per passenger mile, as opposed to the Authority's "projected" rate of 10 cents, future Legislatures and future Administrations will have to provide annual subsidies in the range of billions of dollars. This will not be legal under Section 2704.08 (c) (2) (J) and Section 2704.08 (d) (2) (D) of AB 3034 and it will force the Legislature every year to make cuts to other programs to accommodate operating subsidies to High Speed Rail.

At that point in time who will be held accountable?

SUMMARY

1. THERE IS MOUNTING EVIDENCE THAT THIS IS A SERIOUS PROBLEM THAT IS NOT BEING ADDRESSED

Studies by BBVA, which the CHSRA references, show operating costs per passenger mile are in the 40 cents range and confirms our conclusion of 2011. A Spanish presentation to the Board in 2011 provided pricing and costing information that reaffirmed this 40 cent cost range. The 2012 Draft Business Plan presents an operating cost projection that is in the range of 10 cents per passenger mile. CEO Van Ark reaffirmed the Business Plan projections at a US Congressional Hearing.

2. THERE ARE MANY UNASKED AND UNANSWERED QUESTIONS

How can the Business Plan be based on costs that are 25% of international cost structures? Why were the BBVA studies and the Spanish presentation price and cost data not present in the Business Plan? How does Mr. Van Ark's testimony reconcile with the BBVA and Spanish information?

3. IF THIS PROBLEM IS REAL, HOW SERIOUS IS THE PROBLEM?

If the Business Plan operating costs rise from the projected 10 cents per passenger mile to the international average of about 40 cents, annual losses will be in the range, annually, of \$2Billion to \$9Billion YOY.

4. SO, WHAT ARE THE MESSAGES?

The US marketplace will not allow for international ticket pricing at about 40 cents per mile, so subsidies are going to occur. This set of conclusions should have been reached by the CHSRA a year or two ago.

5. CONCLUSIONS

The Administration and the Legislature need to accept the need for subsidies, which are not legal under AB3034, and understand the impact on the General Fund over future years. The alternative of higher ticket prices will most probably dramatically reduce the passenger volumes and the role of HSR in California.

6. HOW TO PROCEED

These conclusions need to be validated by independent groups of the State government, before construction begins.

THERE IS MOUNTING EVIDENCE THAT THIS IS A SERIOUS PROBLEM THAT IS NOT BEING ADDRESSED

1. In Mid 2010 we concluded from pricing data from the international HSR providers that there was an operating cost problem.

Brief Note #14 and #15¹, and Section 2.6 (pgs. 28-29) of **Revisiting Issues In the October 2010 Financial Risks Report²** contains an analysis of the per passenger mile ticket prices in Europe, Japan and Amtrak's Acela. The charges are remarkably consistent; from a low of 34 cents per passenger mile in Italy to 50 cents in Germany and Japan. The USA Acela's per passenger mile ticket price, 44 cents, is right in the middle. Even discounting the fact that the operating costs in Europe are subsidized to a greater or lesser degree – as discussed on **Brief Note #6 and #10³** – it seems logical to conclude that the average 43 cents is a reasonable estimated per passenger mile operating cost at which a high-speed system could operate. In comparison, as discussed below, the CHSRA projections of operating costs show they are estimating they will manage their service at about 10 cents per passenger mile.

2. A detailed BBVA study, which the CHSRA had access to, shows that international operating costs are in the 45 cents per passenger mile range, raising serious questions about the alleged "profitability" of international HSR systems.

Our finding, above, with respect to international operating costs is confirmed by a July 2009 BBVA report, *Economic Analysis of High-Speed Rail in Europe*.⁴ This report is a more recent version of a 2007 report that Parsons Brinckerhoff references on page 7, footnote 3 of their *Estimating High-Speed Train Operating & Maintenance Cost for the CA HSRA 2012 Business Plan*, of October, 2011. This report is available on the CHSRA Web site. In both the 2007 and the 2009 BBVA Reports there are the same operating and maintenance costs for 2002 for eleven different HSR systems around Europe. An analysis, shown in Figure 1, of the eleven European systems' operating and maintenance costs, in Euros, and converting to miles and dollars yields operating and maintenance costs per seat mile of 28 cents and 03 cents respectively. Inflating from 2002 dollars to 2010 dollars, yields a combined operating and maintenance expense of 48 cents per passenger mile, assuming a 75% passenger load factor⁵. It should be noted that our analysis is simply an un-weighted average of the average costs provided in the BBVA report for each of the eleven systems, as there is insufficient data to do a proper weighted average of all the European carriers. However, it is noteworthy that the two lowest cost train systems in the BBVA reports, the two types of French TGV "double deck" trains that are used on the Paris to Lyon corridor, have a cost of about 31 cents per passenger mile, still three times the projected CHSRA costs of 10 cents per passenger mile.

It is also helpful to break these sets of data into two groups, the French and German systems, as "Mature Systems" in the 2002 time period, and the Italian and Spanish as "New Systems". This shows that the large fleets with years of experience, had costs that average about 44 cents per passenger mile, while the newer, smaller fleets had costs in the range of 59 cents per passenger mile.

These two BBVA Reports, and their data set, which have been in the public domain since 2007 and 2009, allow us to project that average European high-speed rail operating costs, in 2010 \$s, per passenger mile are in the range of 45 cents to 50 cents, including the efficiencies of the "double deck" French trains which are at about 31 cents per passenger mile. This validates the analysis of the 2011 report, **Revisiting Issues In the October 2010 Financial Risks Report**, that even with revenues in the range of 43 cents per passenger mile, operating costs per passenger mile exceed revenues per passenger mile across Europe. This finding is consistent with public testimony that international high-speed rail operations are subsidized as shown in Brief Notes #6 and #10, and the '**Revisiting**' report.

It is also consistent with the frequently made claim that the French Paris to Lyon segment is profitable. That may very well be true, since they have the lowest operating costs per passenger mile due to use of the "double deck" train sets that are needed to carry the passenger volumes on this segment. As stated in Brief Note #14, our analysis showed that the lowest adult fare per passenger mile in

2011 was 40 cents per passenger mile, for Paris to Lyon. Compared to our projected operating and maintenance cost of about 31 cents per passenger mile, it shows an operating margin of 9 cents per passenger mile. Now, to get a true perspective of operating margin, one would need to be sure no other operating and maintenance costs are being absorbed by other entities of the French government. As mentioned on our Brief Note #10, it is not clear what costs are being absorbed by the RFF (Reseau Ferre de France) which may, or may not, be included in the BBVA report.

What is important is to put just these "best case" French numbers in perspective - operating costs in the range of 31 cents per passenger mile, compared to the CHSRA plan of operating costs of about 10 cents per passenger mile. How can the CHSRA plan to operate a HSR system for 33% of what the French are spending on operations?

Also note that while the French have revenues in the range of 40 cents per passenger mile, the CHSRA plans to collect revenues in the range of 20 cents per passenger mile. In effect, the CHSRA plans to operate at 33% of the operating costs of the French train systems, and therefore the CHSRA will be able to sell tickets at 50% of the price of the price the French are charging on a per passenger mile basis.

3. A Spanish presentation to the CHSRA Board provided validating costing information.

In the June 2011 CHSRA Board Meeting a presentation was provided by the Spanish government regarding the Spanish HSR system. One of the presentations, "RENFE Company Profile and Development of HSR Services" contained detailed pricing information and summary costing information.⁶

Information was provided to the CHSRA Board and to CHSRA CEO Mr. Van Ark (who attended the Board Meeting) on the two types of long distance HSR which were reported to be "profitable", and one regional HSR system which is subsidized by the Spanish government. When the ticket price data in the presentation is converted to dollars per passenger mile and averaged out for the various classes of services, such as Club (First Class), Business, and Tourist, the two long distance HSR systems have 2010 or 2011 ticket prices in the range of 45 to 65 cents per mile. They also reported that they have a 19% "profit" margin on the Madrid to Barcelona segment. Accepting this profit margin representation and extrapolating it to the two long distance systems, it leads one to conclude that the operating costs for these two long distance systems are in the range of 40 to 50 cents per passenger mile. This range of Spanish operating costs is very similar to the projections of the 2009 BBVA study, discussed above, which reports European operating costs in the range of 45 cents to 50 cents per passenger mile. This examination of this presentation shows that it lacks sufficient detail to draw any specific conclusions regarding the Spanish prices and costs, other than to say it is very apparent that the costs are in the ranges of 40 to 50 cents per passenger mile. It also

important to note that the operating costs have dropped from the 59 cents per passenger mile in the 2002 time period (in the BBVA report) to the 45 cents to 50 cents in the 2011 Spanish presentation. This occurred while the traffic for the two long distance systems grew from 3.5M passengers in 2002 to about 11M passengers in 2010.

All of these cost numbers are a far cry from the Authority's projected cost of 10 cents per passenger mile.

4. The Draft 2012 Business Plan ignores all of these indicators and continues to use an artificially low cost-per-mile estimate, therefore creating an illusion of operating profit in the system's forecast.

Five months after the Spanish Board presentation the Authority continued to claim, in the 2012 Draft Business Plan, that their operating expenses are essentially half their 19 cents of revenue per passenger mile for the LA to SF trip. [Based on the 425 miles between Los Angeles and San Francisco and their \$81 ticket.] This computes to operating costs of about 9 cents to 10 cents per passenger mile. This is somewhat better than their 12 cents of revenue and 6 cents of operating costs in their 2008 Plan – which was based on telling voters in the first ballot description they could travel that same route for “about \$50.”⁷ However, even raising the one-way SF-LA ticket charge to \$81 in the **CHSRA Draft 2012 Business Plan** means that with their projected 50% operating profit (margin) the Authority's estimated operating costs per passenger mile are still less than one fourth of the actual average per passenger mile operating costs in Europe, and one about third of the “best in breed” results of the French HSR systems.

5. CHSRA testimony reaffirmed their Business Plan operating costs projections.

Lastly, in testimony before the US House Subcommittee on Railroads, Pipelines and Hazardous Materials, on December 15, 2011, Mr. Van Ark provided additional perspective on this issue. In response to a question from Representative Gary Miller of California, Mr. Van Ark said that all of the price and cost projections in the 2012 Draft Business Plan have been checked and crossed checked against all the systems in the world. His testimony is available via video, at the end of a 5 minute video clip.⁸

It is not clear how his statement is consistent with the information provided in the 2007 BBVA Report referenced in the Business Plan Operating Cost document produced by Parsons Brinckerhoff, see above, or the Spanish presentation to the CHSRA Board in June of 2011.

THERE ARE MANY UNASKED AND UNANSWERED QUESTIONS

1. How can California's proposed train have operating costs that are one fourth that of Europe when the European systems' operating costs are clearly subsidized (prohibited under AB3034) and the **Draft 2012 Business Plan** states

that US labor costs – a major component of operations – are higher than in Europe? For example, the California Amtrak's Pacific Surfliner and San Joaquin reported last year revenue of 25 cents per passenger mile and operating costs of 44 cents per passenger mile⁹.

2. Why were these BBVA 2007 and 2009 publically available studies not used as reference documents in the CHSRA's December 2009 and the 2012 Business Plans, showing that there is a substantial difference between the historical European costs per passenger mile results and the projected CHSRA costs per passenger mile results? If there are legitimate arguments why such an operating cost difference is a reasonable assumption, it should be plainly stated so that the Legislature, responsible for ensuring no operating subsidy is required, could understand the situation.

3. Why was the pricing and costing information in the 2011 Spanish presentation to the Board not incorporated into the Draft 2012 Business Plan? Once again, if there are legitimate arguments for a cost difference, they should be plainly stated for the Legislature.

4. How can there be such a serious disconnect between the House of Representatives testimony of Mr. Van Ark and these two BBVA 2007 and 2009 Reports and 2011 Spanish Presentation, each with their included sets of contradicting information?

IF THIS PROBLEM IS REAL, HOW SERIOUS IS THE PROBLEM?

The magnitude of the problem is stunning. Figure 2 shows the amount of risk that is built into the current Business Plan as the Operating Costs are extremely understated.

There is an important caveat that needs to be noted. The following analysis assumes the ridership forecasts adopted by the CHSRA, yet we also recognize these forecasts have been challenged by knowledgeable forecasters. That being said, if the ridership is less, as many of the operating and maintenance costs are to a great extent fixed and cannot be reduced to match the lower level of ridership, the operating costs as a percent of revenue will be greater than the projected 50%. Therefore the operating profit (margin) as a percent of revenue will be less than the projected 50%. Was this to be the case, the result will be even greater operating deficits. With that said, let us turn our attention to the current Business Plan projections.

There are four blocks of data presented in Figure 2, representing Revenues and Operating Costs and resulting Operating Profit (Margin). On the left the numbers are in 2010 \$s, on the right the numbers are in Year Of Estimate (YOE) \$s.

1. The current Business Plan projections

The first block of data provides the three rows of the Revenues, Cost and

Profits (or Loss) taken directly from the **Draft 2012 Business Plan**. These work out to about 20 cents per passenger mile in revenues, and with a 50% profit margin, an operating cost per passenger mile of about 10 cents.

2. The last block, matching international operating costs

Dropping down to the bottom three rows, the last block of data, is where the Operating Costs have been increased by a factor of 4, to get to an operating cost of about 40 cents per passenger mile, "roughly" equal to the raw (un-weighted) average of the operating costs for the "Mature Systems" in Europe. (See Figure 1) Big annual subsidies will be required, in 2010 \$s in the range of \$1Billion to \$3Billion per year, in YOE \$s in the range of \$2Billion to \$9Billion per year.

The real problem is that it appears the CHSRA revenue per passenger mile numbers are in the correct range, given the air fares and prices of gas in the US, compared to the much higher air fares and gas prices in the international market place. Therefore, higher operating costs will lead to operating losses, as there is little opportunity to increase ticket prices dramatically.

There is a detailed Pricing Analysis on the CC-HSR Web site, as Appendix A of the 2010 Financial Risks Report. We recommended that the ticket prices in the 2009 Business Plan needed to be dropped from \$105 for San Francisco to Los Angeles to between \$82 and \$83. See pages 3, 4, and 12. In the 2012 CHSRA Business Plan the new price was set at \$81.

Therefore, the CHSRA can not just decide to raise prices 100%, which is what they would have to do (just to break even), if their costs are really going to track the international operating costs.

3. The third block, achieving costs as low as the French

What if the CHSRA can keep their operating cost from going up to the international costs of about 40 cents per passenger? In other words, what are the results if the CHSRA can "do better" than the average international market? Maybe they can do as well as the lowest cost segment identified in the BBVA Report mentioned above, which are the French "double deck" trains, such as the ones used on the Paris to Lyon segment. They are at about 31 cents per passenger mile. (See the top two rows of Figure 1) So if the CHSRA Authority could get down to operating costs as low as the "best in breed" in Europe, they will only lose, annually, \$0.5Billion to \$1.5Billion in 2010 \$s, or \$1.0Billion to \$4.0Billion in YOE \$s. This is shown in the third block of numbers, which looks at 30 cents per passenger mile operating costs.

4. The second block, having operating cost lower than anyone

Finally, what if the CHSRA could get to one half of the international cost per passenger mile number, which is 2/3s of the French number? Then the CHSRA will be at about break even. This is shown in the second block of data.

In summary, if the CHSRA has operating costs similar to the International "Mature Systems" they will lose many Billions per year. If they can get their cost down to the "best of breed" French system, they will lose fewer Billions per year. If they can operate at half of the cost of the international systems, which seems unlikely in the extreme, then they will just about break even. Can they deliver their currently projected cost structure, which is one quarter of the international "Mature Systems"? It is our opinion that the answer is "No".

SO, WHAT ARE THE MESSAGES?

1. There is a MAJOR structural problem that has been hidden from view. It seems inevitable that CHSR will not be profitable and will require operating subsidies, which AB3034 makes illegal.

The ability to get revenues per passenger mile high enough to cover "international like" operating costs is probably impossible given the competitive prices in the US marketplace. The CHSRA has had too much focus on the "ridership model"; the real issue is the lower ticket prices required in the US marketplace compared to existing cost structures in the international marketplace.

2. There was incomplete staff work done, or presented, to the Administration and the Legislature with respect to the business model.

There are two ways to prepare a cost estimate. The first way is "bottom up", where some of 'this cost' and some of 'that cost' are added together, and presented as what it will cost to produce a product or a service. The second way is "top down" by taking existing cost structures that currently provide similar goods or services and then deciding how one's proposed product or service will be different in its cost structure. For example, the "bottom up" approach would show the cost of energy, on a cost per passenger mile basis. If there are dramatically lower costs of energy in the US, that would materially lower the operating cost per passenger mile, this could be an adjustment to lower the European cost per passenger mile to a more realistic cost per passenger mile in the US marketplace. When these two approaches converge on a similar cost estimate, there is a reasonably good chance most of the needed components of the "bottom up" approach have been incorporated in the estimates, and the differentiations in the "top down" approach that allow for a difference from existing cost structures are identified, so they can be managed to, and hopefully achieved.

Clearly, the Parsons Brinckerhoff Cost Estimate Report, mentioned earlier,

followed the "bottom up" approach, and came up with a cost structure that is in the 10 cents per passenger mile range. It is not evident that the "top down" approach was used at all, because it would have produced a "big red flag" that existing cost structures are in the 40 cents per passenger mile range. And nothing was said about how the CHSRA will be able to provide reliable and safe service at one fourth the European costs. Clearly, it appears no convergence occurred.

The CHSRA and Parsons Brinckerhoff clearly had access to these several international studies and reports which should have alerted them to the apparent disparity between the European operating costs and their projected operating cost. Their "bottom up" costing approach has led to a cost structure that now appears to be one fourth that of the international marketplace, which ought to indicate that they have missed something or grossly underestimated one or more of their cost centers. If they had also taken a "top down" approach as a validity check on the "bottom up" approach maybe this issue could have been identified sooner. If Parsons Brinckerhoff did do some "top down" analysis, it should have been made available to the Administration and the Legislature. This seems to have been a serious lack of convergence.

CONCLUSIONS

1. To date both the Legislature, the Administration, and the CHSRA have ignored these two issues.

The US marketplace will force HSR ticket prices to be lower than existing international ticket prices on a per passenger mile basis.

The 2009 and 2012 Business Plan projected operating costs bear no correlation to the existing international operating costs on a per passenger mile basis.

However, they were first presented in both **Brief Notes No. 14 and No. 15** of August 2011, as well as in Figure A (page 17) of **Revisiting Issues In the October 2010 Financial Risks Report** of September 2011. With about \$600,000 per day being spent by the CHSRA in 2012 to design and plan for this \$100 Billion investment, it is hard to understand why this issue can not/will not be addressed by Sacramento.

2. In the months since the **Draft 2012 Business Plan** was issued, no legislative body has even asked whether such a 'low-ball' operating cost estimate is responsible; much less demanded to be shown independent, validated, evidence of its adequacy. That inaction has once again let the CHSRA avoid the 'Elephant in the Living Room'. The counter argument that these "operating details" will be sorted out once an operator has been selected is self serving. This is not a "detail". This is at the core of AB 3034 (no subsidy) and the CHSRA is proceeding with projections that appear to fly in the face of current day reality.

3. Another classic example of a lack of responsibility is the lack of a contingency plan if the operating costs do not turn out to be in the range of the Authority's projected 10 cents per passenger mile, but closer to the international marketplace's actual operating costs which are in the 40 cents, and higher, per passenger mile range.

This issue truly does appear to be the "Elephant in the Living Room", for if the costs turn out to be higher, future Administrations and Legislatures will need to provide a subsidy from the General Fund to operate the HSR system, which will be against the provisions of AB 3034. These annual subsidies will be in the Billions of dollars per year, as shown in Figure 2. There does not appear to be any other rational contingency plan available. When the current Administration and Legislature fund the construction phases they are, by definition, accepting this future subsidy as the contingency plan for the risk of operating cost overruns.

4. The Administration and the Legislature could step back from the defined marketing objective of capturing 40 Million passengers per year with a pricing model that is competitive against air fares and gasoline prices. As discussed above, this report focuses on Revenues and Operating Expenses in the CHSRA forecasts. We generally agree with the Business Plan when it says that CHSRA ticket prices must be competitive with air fares and gasoline prices, and therefore we accept the forecasted ticket pricing. But as this report shows, such pricing will inevitably lead to operating deficits if one accepts our higher forecasted operating costs per passenger mile. It must be added, however, that CHSRA could significantly increase ticket prices, and therefore revenue, in order to cover the higher operating expenses we forecast. Our quick modeling suggests ticket prices would need to increase from 50% to 100% from what they are currently forecast.

The point being two-fold: (1) ticket prices could likely track Europe's and Acela's, being geared for business travelers and the wealthy, and be much less accessible to middle class and lower income people; and (2) nobody at CHSRA has presented what ridership, and breakeven financials, would look like if:

Prices were raised 50% if operating costs could equal the two French "best of breed" train systems of 30 cents per passenger mile. This would mean prices rise from 20 cents to 30 cents per passenger mile, and a San Francisco to Los Angeles ticket would go from \$81 to \$122

Prices were raised 100% if operating costs could equal the average of the Mature Systems in Europe and be about equal to the Acela system pricing of about 40 cents per passenger mile. This would mean prices rise from 20 cents to 40 cents per passenger mile, and a San Francisco to Los Angeles ticket would go from \$81 to \$162

As far as we can tell, the Business Plan activities and its prerequisite ridership forecast have not considered such a high ticket price model, but clearly this would result in much lower ridership and also would result in ticket prices that are out of the reach of many families, which has been one of the touchstones for

many in the Administration and the Legislature as they review the CHSRA proposition.

Neither systemic outcome – operating subsidies in the first case or a system that only the wealthy can afford in the second – seems an appealing way to invest \$100 billion that will never be recovered through operations and must therefore be paid for by the taxpayers of either the United States or California.

HOW TO PROCEED

The impact of these four issues is that it is not clear how to proceed, other than to stop the project. Before considering stopping the project it would seem prudent for the Administration and the Legislature to expend financial and independent staff resources to validate the analysis provided in this Report or to validate the CHSRA's current cost projections. This will require travel overseas to collect source data that can be known to have a verifiable audit trail. However, compared to a CHSRA "burn rate" of about \$600,000 per day, it would appear to be a reasonable investment.

If this Report's assertions prove to be valid, the State has a serious problem if it goes forward with this project. The marketplace will not allow ticket prices to be raised to cover the operating costs that will be similar to the international costs. It would take a miracle to hold operating costs at one half of international costs, to just, hopefully, break even. The results will be 1) a lack of positive cash flow from operations to help fund the construction of subsequent segments, and 2) operating subsidies that AB 3034 prohibits and that Prop 1A promised voters would not happen.

¹ Available at www.cc-hsr.org

² Available at www.cc-hsr.org

³ Available at www.cc-hsr.org

⁴ Ginés de Rus (Editor), Ignacio Barrón, Javier Campos, Philippe Gagnepain, Chris Nash, Andreu Ulied, Roger Vickerman; Economic Analysis of High Speed Rail in Europe; Fundacion BBVA, Informes 2009, Economica y Sociedad. See:

<http://www.fbbva.es/TLFU/tlfu/ing/publicaciones/informes/fichainforme/index.jsp?codigo=424>

⁵ In response to a question asked by a CHSRA Board member, Juan Matias Archilla Pintidura of the Spanish RENFA stated that the Load Factor on the Spanish HSR system was between 70% and 80%. This occurred at the June 2, 2011 presentation of the RENFA HSR system at the CHSRA Board meeting. The presentation is on the video of the Board meeting, about one hour into the meeting.

The video is available at: http://stateofcalifornia.granicus.com/MediaPlayer.php?publish_id=30

⁶ RENFE Company Profile and Development of High Speed Rail Services, presented to CHSRA Board June 2, 2011, see pages 17, 33, 34, 36, and 50. Available at:

<http://www.cahighspeedrail.ca.gov/assets/0/152/232/f8663924-d330-4abf-ba2d-e295d2546db7.pdf>

⁷ See pg. 2 of the (first) Official Voter Information Guide of August 28, 2008 at:

<http://www.voterinfo.sos.ca.gov/past/2008/general/argu-rebut/argu-rebutt1a.htm>

⁸ See US House testimony of Mr. Van Ark via video at: http://www.youtube.com/watch?v=IXDeu_4-AXs&feature=youtu.be

⁹ See Amtrak 2011 Annual Reports at:

<http://www.amtrak.com/servlet/ContentServer?c=Page&pagename=am%2FLayout&p=1237608345018&cid=1241245669222>

4

California High-Speed Train Project



TECHNICAL MEMORANDUM

Trainset Configuration Analysis and Recommendation TM 6.3

Prepared by: Signed document on file 23 Sep 09
Frank Banko Date


Checked by: Signed document on file 23 Sep 09
Clive Thornes Date

Approved by: Signed document on file 23 Sep 09
Ken Jong, PE, Engineering Manager Date

Released by: Signed document on file 30 Oct 09
Anthony Daniels, Program Director Date

Revision	Date	Description
0	23 Sep 09	Initial Release

Note: Signatures apply for the latest technical memorandum revision as noted above.

Prepared by 
for the California High-Speed Rail Authority

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System Level Technical and Integration Reviews

The purpose of the review is to ensure:

- Technical consistency and appropriateness
- Check for integration issues and conflicts

System level reviews are required for all technical memorandums. Technical Leads for each subsystem is responsible for completing the reviews in a timely manner and identifying appropriate senior staff to perform the review. Exemption to the System Level technical and integration review by any Subsystem must be approved by the Engineering Manager.

System Level Technical Reviews by Subsystem:

Systems: Not Required
Print Name: _____ Date _____

Infrastructure: Not Required
Print Name: _____ Date _____

Operations: Not Required
Print Name: _____ Date _____

Maintenance: Not Required
Print Name: _____ Date _____

Rolling Stock: Not Required
Print Name: _____ Date _____

Note: Signatures apply for the technical memorandum revision corresponding to revision number in header and as noted on cover.

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ABSTRACT

The CHSTP system definition has been developed around the premise that the system will procure a 400 meter trainset configuration capable of accommodating between 900 -1000 passengers, traveling at an operating speed of 220 mph. The trainset is to be an existing service proven platform that either currently operates at the desired CHSTP operating speed of 220 mph, or will be proven to operate in service at the desired speed prior to the start of CHSTP revenue service.

There are several trainset configurations that can potentially meet the CHSTP stated requirements. These configurations can be categorized as single-level trainsets utilizing power cars, multi-level (duplex) trainsets utilizing power cars, single-level distributed power electric multiple units and multi-level distributed power electric multiple units.

The purpose of this White Paper is to compare the advantages and disadvantages of each of these categories of trainsets. The Paper will identify which type of trainset configuration best satisfies the CHSTP system objectives and will make a recommendation of the trainset technology that should be selected for the California High-Speed Train Program.

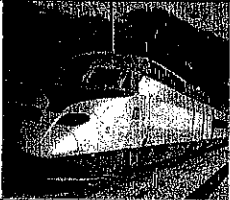

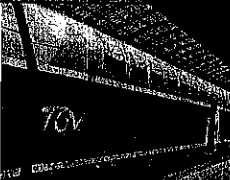

1.0 INTRODUCTION

1.1 STATEMENT OF TECHNICAL ISSUE

The CHSTP desires to procure and operate service proven trainsets capable of operating at 220 mph with a capacity of between 900 – 1000 passengers per 400 meter unit. The CHSTP has evaluated current high speed trainsets, and has determined that there are several trainset configurations that could satisfy the CHSTP system objectives. The challenge facing the Team is to develop an approach for evaluating the trainset configurations against key parameters that relate to the CHSTP system objectives, in an effort to identify the trainset configuration that is the most appropriate to begin CHSTP revenue service.

The table below illustrates potential trainset configurations. The matrix identifies four unique configurations, representative designs for each configuration and primary technical attributes.

Table 1 – Trainset Configurations

Type Code ¹	Trainset Configuration	Representative Designs		Primary Technical Attributes
S-P	Single-level trainsets utilizing power cars		Alstom TGV, Rotem KTX, Rotem KTX-II	Power cars in lead and end positions, non-powered single-level passenger coaches, no passenger space in leading unit.
S-E	Single-level distributed power electric multiple units (Type S-E)		Alstom AGV, Bombardier Zefiro, Shinkansen Series N-700, Siemens Velaro,	Traction power distributed throughout the trainset, single-level coaches, passenger space in leading unit.
M-P	Multi-level (duplex) trainsets utilizing power cars (Type M-P)		Alstom TGV Duplex	Power cars in lead and end positions, non-powered multi-level passenger coaches, no passenger space in leading unit.
M-E	Multi-level distributed power electric multiple units		Alstom V150 ² , Shinkansen Series E1, Shinkansen Series E4	Traction power distributed throughout the trainset, multi-level coaches, and passenger space in leading unit.

¹ S = Single level passenger vehicle, P = Passenger vehicles with power cars at each end, E = EMU, M = Multilevel passenger cars (Duplex).

² The V150 trainset was developed by Alstom to capture the high speed record for trains running on rails. The V150 is a hybrid configuration consisting of power cars, distributed power on the coaches, and multi-level (duplex) coach configuration.

1.2 GENERAL INFORMATION

As illustrated in Table 1 above, single-level high speed trainsets are currently being produced by several manufacturers. The manufacturers include, Alstom, Bombardier, Rotem, Siemens, and Japanese consortia (Sumitomo/Kawasaki/Hitachi). The single-level trainsets have operating speeds ranging from 186 mph (300 km/h) to 224 mph (360 km/h). Single-level trainsets have

been developed in power car, and distributed power EMU trainsets, and offer various interior configurations such as:

- Club, Preferential, or First Class cars that can have 2 x 1 seating and provide in seat steward attention and audio/video facilities.
- Club, Preferential, or First Class Car Lounges
- Tourist, Business or Second Class cars that can have 2 x 2 seating, are less expensive and have less amenities.
- Bar, Bistro or Cafeteria Cars

High-speed multi-level (duplex) trainsets are currently being produced by Alstom and Japanese consortia (Kawasaki/Hitachi). The Alstom Duplex trainsets have a maximum in-service operating speed of 198.84 mph (320 km/h), although, recent test runs at 224 mph (360 km/h) have been successfully conducted by Alstom and SNCF. An Alstom TGV Duplex V150 trainset was developed to capture the high-speed record for trains running on rails. The V150 is a hybrid configuration consisting of power cars, distributed power on the coaches, and successfully operated at 357 mph (574.8 km/h). The Japanese Shinkansen E1 and E4 Series duplex trainsets built by Hitachi and Kawasaki have a maximum in-service operating speed of 149 mph (240 km/h), and have been tested to a maximum speed of 171 mph (275 km/h). Multi-level trainsets have been developed in power car, and distributed power EMU trainsets, and offer various interior configurations similar to the single-level configurations, with the main difference being that passenger space is available on two (2) levels within each multi-level coach accessible via stairways. Multi-level and single-level trainsets can be operated over the same lines.

2.0 DEFINITION OF TECHNICAL TOPIC

2.1 GENERAL

This Technical Memorandum compares attributes of single level high-speed trainsets with high-speed duplex level trainsets. Major characteristics of the two types are discussed and have been rated so an overall recommendation can be made.

3.0 ASSESSMENT OF TRAINSET CONFIGURATIONS

3.1 STANDARDS

It is the stated policy of the California High Speed Rail Authority that the rolling stock shall be service-proven high-speed trainsets. This is referenced in the Technical Memorandum, TM 6.2 Introduction of European and Asian High-Speed Rolling Stock to California. Both single-level and multi-level trainsets are built to the country of origin's standards. In addition, for trains that cross country borders, there are interoperability specifications for the trans-European high-speed rail system. This document is Directive 96/48/EC – Interoperability of the Trans-European High Speed Rail System, Technical Specification for Interoperability "Rolling Stock" Sub System. Trainsets manufactured to European standards follow the EU Technical Specifications for Interoperability regardless of origin country of the manufacturer.

3.2 OPERATING SPEED AND SEATING CAPACITY

The CHSTP operating plan is based on procuring and operating service proven trainsets capable of a maximum in-service speed of 220mph with a capacity of between 900 – 1000 passengers per 400 meter unit. Table 2 below, identifies in-service speeds and seating capacity of trainsets representing each of the four trainset configurations identified in Table 1.

Table 2 – Trainset Speed and Capacity

Type Code	Manufacturer	Trainset	Train Make-up (400m)	Train length	Number of Seats	Max. In-service Speed
S-P	Alstom	TGV (Resau)	4 Power cars 16 Trailer Cars	400m	754 Total 240 - 1 st 514 - 2 nd	198.84 mph (320 km/h)
S-P	Rotem	KTX-II	4 Power cars 16 Trailer Cars	402m	726 Total 60 - 1 st 666 - 2 nd	186.4 mph (300 km/h)
S-E	Alstom	AGV	22 Cars 12 - Powered Bogies 12 - Non-powered bogies	400m	892 - 1020 Total 194 - 1 st 698 - 2 nd	224 mph (360 km/h)
S-E	Japanese Consortia	Shinkansen Series N700	14 Motor Cars 2 Trailer Car	404.7m	1323 Total 200 - 1 st 1123 - Std	186.4 mph (300 km/h) ²
S-E	Siemens	Velaro E/CN	8 Motor Cars 8 Trailer Cars	400m	808/1202 Total 74/144 - C 206 - P 528/1058 - T	217.5 mph (350 km/h)
M-P	Alstom	Duplex	4 Power cars 16 Trailer Cars	400m	1020 Total	198.84 mph (320 km/h) ¹
M-E	Japanese Consortia	Shinkansen Series E4	8 Motor Cars 8 Trailer Cars	402.8m	1634 Total 108 - 1 st 1526 - Std	149.1 mph (240 km/h)

¹Recent test runs of an Alstom Duplex trainset at 224 mph (360 km/h) have been successfully conducted by Alstom and SNCF.

²A Japanese trainset, Fastech 360, with maximum service speed of 224 mph (360 km/h) is being tested for next generation Shinkansen scheduled for revenue service in 2011.

As illustrated in Table 2, above, there is currently one single-level distributed power electric multiple unit trainset (Alstom AGV) and one multi-level trainset (Alstom Duplex – demonstrated to travel at 224 mph during testing) that meet the requirements of the CHSTP. Both Siemens and the Japanese Consortia have advised that its Velaro E and Shinkansen trainsets, respectively, can be designed to travel at 220 mph.

With the exception of the Alstom TGV, and Rotem KTX-II trainsets, all of the candidate trainsets would satisfy the CHSTP system requirement of 900 – 1000 passengers per 400m trainset, dependant on the seating density chosen. A comparison of the Alstom AGV and Duplex trainsets shows that the Duplex could provide approximately 15% more seats than the AGV trainset.

3.3 COMPETITION

Competition between manufacturers tends to contain the cost of trainsets on all contracts. In developing its price, each manufacturer arrives at a unit cost that is based on the technical specification and contractual terms and conditions. The manufacturer will also take into consideration several items such as current/projected work load, capacity of the manufacturing facility, delivery schedule, staff availability, and value of non-recurring engineering costs. In addition, when there are several competing manufacturers, the cost per trainset is likely to be influenced, especially if the specified trainsets correspond closely to existing designs.

When we evaluate the marketplace relative to single-level trainsets, we recognize that potential manufacturers of CHSTP trainsets could be Alstom, Bombardier, Chinese Consortia, Japanese Consortia, Rotem, Siemens, and Talgo, or, potentially, a combination of these manufacturers.

The multi-level trainset on the other hand has been designed and produced by two entities, Alstom, and the Japanese consortium of Kawasaki and Hitachi. As stated earlier, the Alstom Duplex trainset is the only multi-level design that has been shown to be able to operate at the speeds necessary for operation on the CHSTP. The market place for multi-level trainsets at speeds of 200+ mph has very limited, if any, competition.

In developing the Duplex trainset configuration, Alstom, had to overcome very difficult design issues such as axle loading, structural integrity, influence of crosswinds, location of equipment and access for maintainability. While all the manufacturers for both single and multi-level designs strive to reduce weight within the parameters of the specified structural strength and maximum axle loads, the Alstom Duplex configuration required the development of a sophisticated lightweight aluminum structure. Alstom expended significant non-recurring costs in the design of the Duplex.

It is interesting to note that Alstom initiated research in 1989 and 1990, revealing the potential to design trainsets with operating speeds between 218 mph (350 km/h) and 249 mph (400 km/h). The official project was led by SNCF and GEC-Alsthom (now Alstom). The objective of the SNCF/Alstom project was to develop a prototype "TGV NG" power car that would be in operation by 2000. The new TGV NG power car was to be developed as part of new TGV Duplex trainset. Alstom suspended the project in 1999, when it decided to concentrate on a new EMU trainset design with distributed power rather than dedicated power cars. This new effort resulted in the development and production of the Alstom AGV single-level trainset.

Regardless of the underlying reasons, as illustrated in Table 3, it is apparent that that the marketplace for high-speed trainsets, capable of operating at 220 mph, has been focused on a single-level distributed power electric multiple unit configuration. A trainset procurement that specifies this type of configuration will result in maximum competition.

Table 3 - Competition

Manufacturer	Single-level Power Cars S-P	Single-level EMU S-E	Multi-level Power Cars M-P	Multi-level EMU M-E
Alstom	X	X	X	X ¹
Bombardier		X		
Chinese Consortia		X		
Japanese Consortia		X		X ²
Rotem	X	X		
Siemens		X		
Talgo		X		

¹The V150 trainset was developed by Alstom to capture the high speed record for trains running on rails. The V150 is a hybrid configuration consisting of power cars, distributed power on the coaches, and multi-level (duplex) coach configuration.

²The Japanese Shinkansen E1 and E4 Series duplex trainsets built by Hitachi and Kawasaki have a maximum in-service operating speed of 149 mph (240 km/h).

3.4 CAPITAL COST

Accurate comparable capital costs have been difficult to establish. Manufacturers have been very reluctant to divulge the cost of their high-speed trainsets in the past. The information in the public domain is usually combined with costs for a High-Speed Rail system or includes additional power cars or passenger coaches combined with complete trainsets. As illustrated in Table 4 below, in November 2001, SNCF ordered 18 200 meter TGV Duplex trains for €350M. Therefore, the cost per 200 meter train was €19.44M.

Due to the limited cost information available relative to high-speed trainset procurements, it is difficult to develop an accurate comparison of single-level versus multi-level trainset costs projected in future dollars. However, based on the lack of competition (ref section 2.3) and the increased level of complexity in the design of a multi-level trainset, it is reasonable to conclude that the multi-level train would be more expensive to procure than a single level train.

Table 4 – Train Costs

Type Code	Manufacturer	Trainset	Train length	Train Cost
S-E	Siemens	Velaro E	200m	€25.2 M (Average 2001 to 2004)
S-E	Alstom	AGV (New EMU type Articulated)	200m	€26.00M (2008)
M-P	Alstom	Duplex	200m	€19.44M (2001)

3.5 DESIGN

3.5.1 Platform Length

The CHSTP is basing the length of platforms on a 400 meter maximum trainset length. As shown in Table 5 below, all of the potential suppliers of trainsets either have designed or are designing 200 meter trainsets that, when coupled together, conform to the TSI requirement for maximum train length of 400 meters \pm 1%.

Table 5 – Trainset Length

Type Code	Manufacturer	Trainset	Train length
S-P	Alstom	TGV (Resau)	400m
S-P	Rotem	KTX-II	402m
S-E	Alstom	AGV	400m
S-E	Japanese Consortia	Shinkansen Series N700	404.7m
S-E	Siemens	Velaro E	400m
M-P	Alstom	Duplex	400m
M-E	Japanese Consortia	Shinkansen Series E4	402.8m

3.5.2 Platform height

There is currently no "standard" platform height. Depending on the line, current HSR operators utilize vehicle-borne steps for boarding, or design platforms that are level with the vehicle floor height. Based on current CFR regulations (ADA), the CHSTP platforms will be designed to allow for level boarding of the trainsets.

Table 6 – Platform Height

Type Code	Manufacturer	Trainset	Vehicle Floor Height
S-P	Rotem	KTX-II	45.47 ins (1155 mm)
S-E	Alstom	AGV	45.47 ins (1155 mm)
S-E	Bombardier	Zefiro	49.21 ins (1250 mm)
S-E	Japanese Consortia	N700	51.18 ins (1300 mm)
S-E	Siemens	Velaro	49.6 ins (1260 mm)
M-P	Alstom	Duplex	12.36 ins (314 mm)
M-E	Japanese Consortia	E4 (multi-level)	51.18 ins (1300 mm) ¹

¹The Shinkansen Series E4 trainset provides for level boarding into the coach, and utilizes on-board lifts to accommodate wheelchairs.

As shown in Table 6, above, the floor height of the single-level trainsets, and the Shinkansen Series E4 multi-level trainset ranges from 45.47" to 51.18", whereas the floor height of the Alstom Duplex trainset is 12.36".

The initial selection of platform height is a critical decision as the platform height will limit the type of trainsets that can be utilized on the system. As the majority of the candidate trainsets fall within the range of 45.47" to 51.18", it may be prudent to set the platform heights to accommodate a trainset within this range, with the expectation that future development of new multi-level trainsets would be designed to accommodate a platform height similar to the single-level floor height dimensions.

3.5.3 Clearance (Overall Vehicle Height)

When compared against the single-level trainsets, the multi-level trainsets are between 14 - 35 inches taller. This additional height adds difficulty in meeting axle loads, crosswind requirements, and from an observer's point of view may be viewed as looking less "sleek". This may be an issue with the general traveling public who has the choice of traveling by car, airplane or HSR.

Table 7 – Vehicle Height

Type Code	Manufacturer	Trainset	Vehicle Height
S-P	Rotem	KTX-II	13.3 ft (4,100 mm)
S-E	Alstom	AGV	13.5 ft (4,125 mm)
S-E	Bombardier	Zefiro	12.8 ft (3,900 mm)
S-E	Japanese Consortia	N700	11.8 ft (3,600 mm)
S-E	Siemens	Velaro	12.8 ft (3,900 mm)
M-P	Alstom	Duplex	14.1 ft (4,303.5 mm)
M-E	Japanese Consortia	E4 (multi-level)	14.71 ft (4485 mm)

The CHSTP is currently determining the vehicle structure gage which will be utilized to determine the width and height of the tunnels, as well as other critical system attributes. The determination of tunnel width and height is a critical decision as the tunnel dimensions will limit the type of trainsets that can be utilized on the system. While a decreased cross section of a tunnel will equate to lower construction costs, it is important to design a system that will provide the operator with the flexibility to utilize a variety of trainset configurations, as service needs warrant.

3.5.4 Maximum axle loading

The maximum axle loading specified by the TSI 2008, the European Technical Specification for Interoperability is presently 17 metric tons. Although all European and Asian High-Speed vehicles meet this maximum axle loading, it did pose a challenge during the design of the Alstom Duplex vehicle. This challenge was overcome by the judicious use of new materials and using modern analytical tools. With the latest trend to EMU type vehicles, the Europeans are considering a reduction to 16t maximum axle loading and it is reported that the Japanese are considering 11t maximum axle loading.

3.5.5 Train formation

The single-level and multi-level trainsets utilizing powered cars consist of a locomotive at each end of the consist with non-powered passenger cars in between. The locomotives provide the power to the trainset, but do not carry passengers. In contrast, the single-level and multi-level distributed power electric multiple units (EMU) have powered trucks distributed through the train, and have passenger carrying capabilities in the end units.

Current thinking for high-speed trains by most manufacturers is to design EMU trainsets and have distributed power through the train. There is no loss of passenger space in the consist so these trains can carry more passengers over a given length of a conventional power car/passenger car configuration. The EMU concept also distributes the vehicle weight more evenly and therefore can readily accommodate the maximum axle loadings.

3.6 MAINTENANCE

The ability to easily perform maintenance tasks is paramount to keeping the trainsets in revenue service, and well maintained in a cost effective manner. If components are difficult to access, the task of maintaining these components is going to take longer, and may require special tooling.

Typically, single-level trainsets have their equipment installed in modular lockers underneath the vehicles and between the trucks (bogies). The modular units can either be removed from the vehicle, or can be worked on from the side of the vehicle. On multi-level vehicles, the lower floor is dropped down between the trucks to accommodate a second level of passenger seating. As the undercar space is no longer available, the equipment is typically installed in lockers located inside the vehicle or in exterior locations such as on the roof. As the equipment is less accessible on a multi-level trainset, when compared to a single-level design, it is reasonable to conclude that the costs associated with maintaining a multi-level trainset would be higher.

3.7 PASSENGER BOARDING AND EGRESS

Multi-level trainsets incorporate stairwells into the coach design to accommodate passage between lower and upper levels of the coach. These stairwells are typically located in proximity to the exterior doors. Due to the interior configuration of a multi-level trainset, the flow of passengers entering and leaving the train can be restricted. Therefore, the boarding process can take longer when compared to a single-level configuration.

Boarding times are impacted further should passengers have luggage with them. On a multi-level trainset, luggage space is typically limited to luggage racks located in several areas throughout the trainset. Passengers with luggage are required to walk to these luggage racks, oftentimes causing congestion in the train aisles. An increase in passenger boarding times will result in increased station dwell times.

Please refer to section 2.9 for additional information relative to luggage racks.

3.8 CEILING HEIGHTS

In order to keep the overall car height as small as possible, the ceiling height on a multi-level trainset is lower than the height on a single-level trainset. Table 8, below, identifies the ceiling height for several candidate trainsets. The reduction in ceiling heights can become an issue for taller passengers, and for the general population, as the passenger areas tend to have a more claustrophobic effect. A 95th percentile US male according to the Architectural Graphic Standards, 9th Edition, Section 1, Human Dimensions is 6' - 3" tall. This individual would be uncomfortable entering and exiting a Duplex car with a ceiling height of 6' - 4".

Table 8 – Ceiling Height

Type Code	Manufacturer	Trainset	Passenger Compartment Ceiling Height
S-P	Rotem	KTX-II	7.46 ft (2274.4 mm) Seats 6.88 ft (2097 mm) End
S-E	Alstom	AGV	7.46 ft (2274.4 mm) Seats 6.88 ft (2097 mm) End
S-E	Japanese Consortia	N700	7.12 ft (2170 mm)
S-E	Siemens	Velaro	7.38 ft (2250 mm)
M-P	Alstom	Duplex	6.33 ft (1929 mm)
M-E	Japanese Consortia	E4 (multi-level)	6.46 ft (1970 mm) Lower 6.41 ft (1955 mm) Upper

3.9 LUGGAGE AND OVERHEAD STORAGE

Due to the interior configuration of a multi-level trainset, and the inherent reduction in ceiling height, luggage space is at a premium. With the lower ceiling heights, there is a reduced capacity on overhead luggage racks. Oftentimes, the overhead luggage racks are suitable only for small items such as brief cases and small back packs. The reduced capacity in luggage racks is further compounded by the fact that there are more people to be accommodated in a multi-level trainset. As a result, the interiors of multi-level trainsets include floor mounted luggage racks located throughout the trainset. A balance between the amount of luggage racks and passenger seating is required so as to maximize capacity.

3.10 AESTHETICS

When passengers compare train travel against flying or using private car, as well as comparing cost, and convenience, the look of the vehicle and the design of the interiors are foremost.

François Lacôte, Senior Vice-President, Technical, at Alstom Transport describes the AGV as 'a modern response to the customer'. He explains that, despite strong interest in Alstom's double-deck TGV, customers prefer a single-deck train set because a double-decker 'does not fit in with their own ideas for technical, cultural or other reasons'. Presentations about the TGV Duplex to customers in Italy, Germany, South Korea and China consistently generated the response that 'the double-decker is very good, but we prefer a single-deck train'. In every case, says Lacôte, 'some kind of obstacle' pushed the customer towards a single-decker.

- Railway Gazette, 31 August 2007

The design of the CHSTP trainset needs to take into account both exterior styling and interior layout/amenities that will appeal to a broad base of potential consumers.

4.0 SUMMARY AND RECOMMENDATIONS

4.1 TRAINSET CHARACTERISTICS SUMMARY

The characteristics of the four trainset configurations have been compiled in Table 9, below, and rated as follows:

- 1 – Current available trainsets EXCEEDS CHSTP requirements (Most Desirable)
- 2 – Current available trainsets MEETS CHSTP requirements (Desirable)
- 3 – Current available trainsets FALLS SHORT of CHSTP Requirements (Less Desirable)

Table 9 – Trainset Characteristics Summary

Characteristic	Single-level		Multi-level		Comment
	Power Car S-P	EMU S-E	Power Car M-P	EMU M-E	
2.1 Standards	2	2	2	2	Both need CFR resolution
2.2a Operating Speed	2	1	2	3	The Alstom AGV is the first EMU designed to operate at 224 mph.
2.2b Capacity	3	2	1	1	All configurations rated as "G" will meet the CHSTP requirement of 900 – 1000 seats per 400m trainset.
2.3 Competition	2	1	3	3	Single-level EMUs has the greatest potential for competition.
2.4 Capital Cost	2	2	2	3	There is not enough information to render a clear decision. Although single-level cars should be less costly to design/build, potentially less multi-level cars may be required for service.
2.5 Design:					
2.5.1 Platform Length	2	2	2	2	All trainsets will meet CHSTP criteria of 400m maximum length.
2.5.2 Platform Height	2	2	3	2	Recognizing that level boarding is a key attribute, the lower height associated with the Duplex trainset could prevent single-level trains from operating over similar lines in the future.
2.5.3 Clearance	2	2	2	2	Taller cars mean crosswind & axle load issues are greater. In addition, single level cars are lower and sleeker (see Aesthetics)
2.5.4 Maximum Axle loading	2	2	2	2	Multi-level trainsets require innovative designs to meet axle loading. This issue will intensify as lower axle loadings are being considered.
2.5.5 Train Formation	2	2	2	2	Most manufacturers are designing EMU type vehicles because of ability to carry more passengers in a train and better weight distribution.
2.6 Maintenance	2	2	3	3	Space is at a premium on multi-level cars and may restrict ease of maintenance.

Characteristic	Single-level		Multi-level		Comment
	Power Car S-P	EMU S-E	Power Car M-P	EMU M-E	
2.7 Passenger Boarding and Egress	2	2	3	3	More passengers and steps to upper floor make a multi-level car more difficult to board and egress. This could impact station dwell times.
2.8 Ceiling Heights	2	2	3	3	Lower ceiling heights may cause discomfort for passengers.
2.9 Luggage and Overhead Storage	2	2	3	3	Limited space in multi-level car for overhead luggage storage.
2.10 Aesthetics	2	2	2	2	EMU trainsets are aesthetically more appealing.

4.2 RECOMMENDATION

Based upon the above summary table, the comparison of the key vehicle characteristics illustrate that the single-level distributed power electric multiple unit (EMU) trainset is the most suitable candidate for the CHSTP.

Key issues to making this decision include:

- Operating Speed (2.2a)
- Capacity (2.2b)
- Competition (2.3)
- Platform heights (2.5.2)
- Ceiling Heights (2.8)

The Alstom AGV EMU is the first trainset designed to operate in service at 224 mph. The only other trainset which is near production with speeds near or in excess of 220 mph includes the Siemens Velaro. Both of these trainsets are based on single level, distributed power electrical multiple units.

With a capacity of between 892 – 1020 seats, the AGV satisfies the CHSTP program goals for speed and passenger seating. While the multi-level trainsets offer increases in seating capacity, the performance standards for in production or near production trainsets fall short of the CHSTP performance requirements.

It is essential for the CHSTP to have more than one manufacturer in order for the cost of trainsets to be competitive and to receive cooperation of all the manufacturers. Several manufacturers have already manufactured or have designed single-level vehicles with distributed propulsion that will meet the CHSTP program goals.

The ADA requirements for level boarding pose a unique challenge to HSR trainsets as there is no "industry standard". Designing the system to accommodate level boarding at a height comparable to the heights of the single-level trainsets and multi-level EMU trainsets, will provide the CHSTP with the greatest flexibility with regards to trainset selection.

Passenger comfort is a key element of any successful transport service. The spaciousness of a single-level trainset and ancillary benefits (e.g. luggage space) will add to the level of comfort experienced by the passenger.

5.0 SOURCE INFORMATION AND REFERENCES

The following documents were referred to for the report:

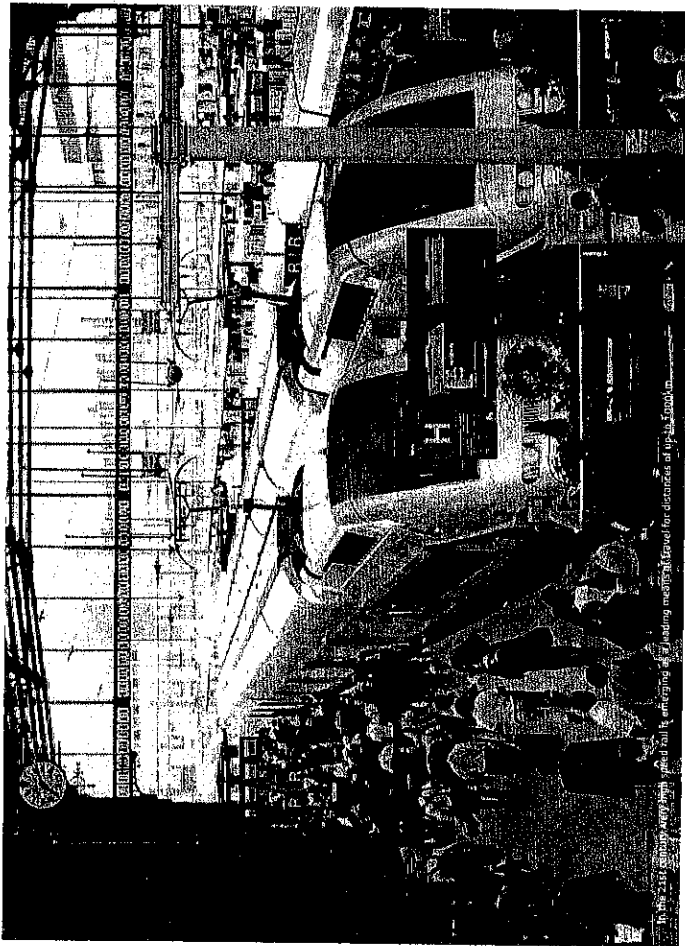
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- Alstom Duplex GA Drawings

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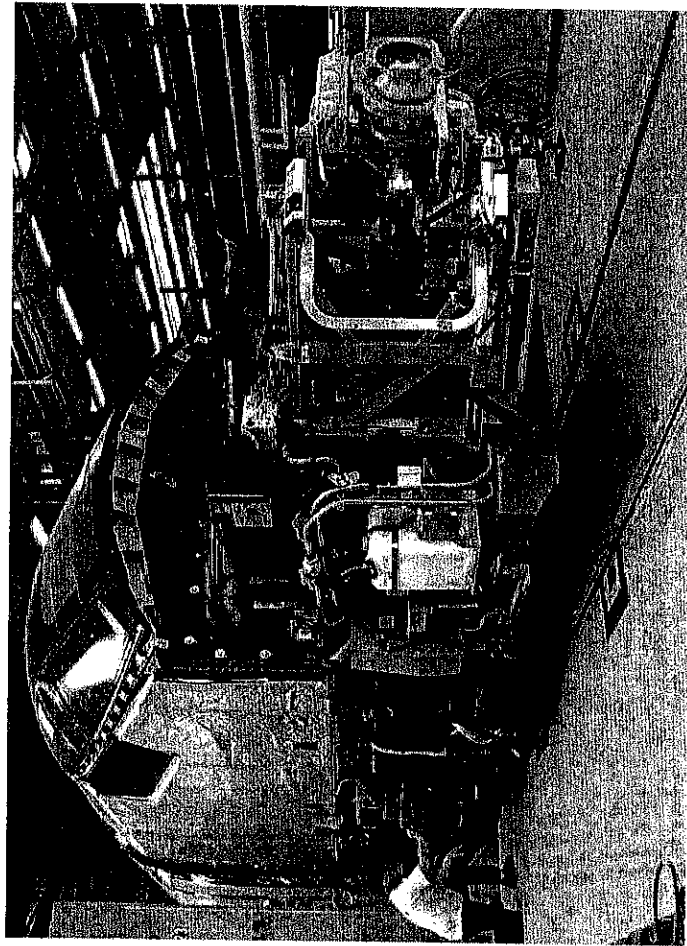
AGV
FULL SPEED AHEAD
INTO THE 21ST CENTURY

ALSTOM



ALSTOM'S 21ST CENTURY RESPONSE

With responsible energy consumption a key consideration in transportation, very high speed rail is emerging as a serious contender for market-leading positions in the competition between rail, road and air over distances ranging from 100 to 1000 km.



INTERNATIONAL OPPORTUNITY KNOCKS

Clean-running very high speed rail offers clear economic and environmental advantages over fossil-fuel powered transportation. It also guarantees much greater safety and security along with high operational flexibility: a high speed fleet can be easily configured and reconfigured in its operator's service image, whether it is being acquired to create a new rail service or to complement or compete with rail and airline operations.

Major technological advances in rail are helping to open these new business prospects. As new national and international opportunities arise, such advances will enable you to define the best direction for your company in this next generation of higher speeds, higher expectations and higher potential rewards.

AGV, INNOVATION WITH A CLEAR PURPOSE

The AGV is designed for the world's expanding market in very high speed rail. It allows you to carry out daily operations at 350 km/h in total safety, while providing passengers with a broad new range of onboard amenities.

The single-deck AGV, along with the double-deck TGV Duplex, bring operators flexibility and capacity on their national or international itineraries. Solidly dependable, the AGV delivers life-long superior performance (15% lower energy consumption over competition) while assuring lower train ownership costs from initial investment through operating and maintenance.

The AGV combines the well-established design philosophy of the TGV and 30 years of technological expertise in very high speed rail with ground-breaking innovation. Over 560 Alstom Very High Speed Trains (VHS16) currently operate at speeds above 300 km/h - that's over 60% of all VHS16s worldwide. Together they have transported over 1.7 billion passengers.



The AGV responds to tens less than computer requirements, resulting in savings of 650,000 kWh for the train.

AGV, PROVEN INNOVATION FOR A NEW RAIL ERA

The AGV is the very first VHST to be designed from the outset as an internationally interoperable train that meets the needs of all involved: operators, passengers (including those with reduced mobility), train drivers, train fleet maintainers and railway infrastructure managers.

YOUR OPERATIONAL NEEDS, YOUR HIGH SPEED CHOICE

Safe, economical and versatile, our very high speed range is at once environmentally friendly and built for comfort. Operators can order either the single-deck AGV or the TGV Duplex to build the interoperable VHST fleets that best serve their needs.

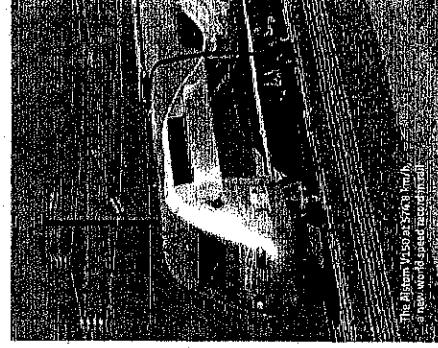
The double-deck train is for dense traffic. It offers the highest train capacity on this market as well as a very high level of comfort. It will also comply with the latest TSI* requirements and be fitted with best-in-class comfort features including a passenger information system.

Complementing our high density carrier, the AGV offers flexible composition in single-deck architecture. Developed for seamless international operations at 360 km/h, AGV has been designed from the start for full compliance with TSI. It can be used for service with multiple stops, bifurcations and international routes.

* Europe's Technical Standards for Interoperability

New world speed record in rail

On April 3, 2007, the Alstom V150 train tested in partnership with SNCF and RFF reached a speed of 574.6 km/h on the new East European high speed line in France. The V150 trainset consisted of 2 TGV power cars, 3 TGV Duplex coaches and 2 AGV motorized bogies and traction units. The new AGV bogie design demonstrated excellent stability in extreme performance conditions. The AGV Permanent Magnet Motors (PMMs), pantograph, traction units and transformer were also fully validated. The world record was the culmination of thousands of hours of testing involving over 300 engineers and technicians.



The Alstom V150 at 574.6 km/h, a new world speed record in rail.

DESIGNED FOR SAFETY & SECURITY



Safety & security are essential attributes of the AGV's pedigree and have been perfected by Alstom over 30 years of accumulated VHST know-how.

ARTICULATED TRAINSET ARCHITECTURE

The AGV is not just equipped for safety. Safety is integral to its basic design. Take the proven articulated trainset architecture: each car shares a bogie with the adjacent car, creating a semi-rigid link between cars. In addition to providing superior dynamic comfort, this full-train architecture minimises the risk that the trainset will break up and cars will pile up, in the event of a derailment. This, in turn, limits the risk of a derailment becoming a very serious accident.

A NOSE FOR SAFETY

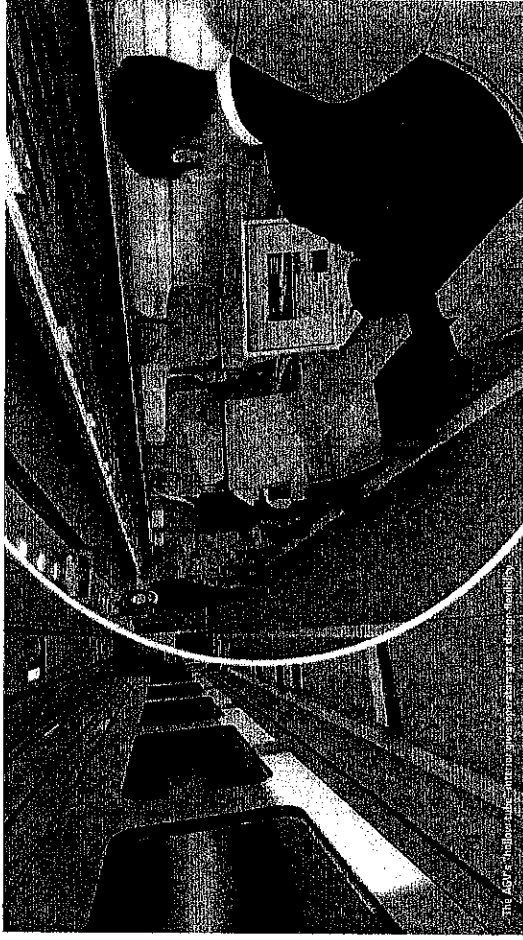
Thanks to its uniquely designed nose, the AGV meets TSI crashworthiness requirements in full, as defined in terms of a set of specific crash scenarios. The kinetic energy absorption unit installed in the AGV nose provides the highest levels of protection to both driver and passengers in the

first coach in the event of a collision. It consists of a 3-stage crumple device that absorbs 4.5 MJ (equivalent to the impact of a heavy truck at 110km/h).

THE AGV DRIVER, SAFE AND SECURE

Beyond ergonomics and comfort, the driver's cab has been the subject of studies to assure a maximum level of driver safety. The cab area's structure has been specially studied to remain integral in case of collision. The driver's desk and surrounding areas have been designed with rounded forms to avoid injury in case of impact; simulations have been carried out with crash test dummies to verify that the environment is truly non-aggressive. To heighten security, the driver has a dedicated entry door and all cabinets containing critical equipment are located in the secure driver zone, completely inaccessible to unauthorized parties.

THE FLEXIBILITY TO MEET YOUR SERVICE NEEDS



The AGV is designed to give operators the flexibility they want in terms of train composition and interiors.

THE IMPORTANCE OF BEING FLEXIBLE

The AGV is offered in trainset configurations of 7, 8, 10, 11 and 14 cars. Up to three 7-car AGV trainsets may be operated in multiple units (within the standard TSI length limit of 400 m) on an initial itinerary and then separated for different final destinations. This flexibility brings operators significant benefits in terms of yield management. The AGV's flexibility-by-design also allows each operator to guide the configuration of train interiors according to their own marketing strategy and their ideal balanced between high comfort and high capacity.

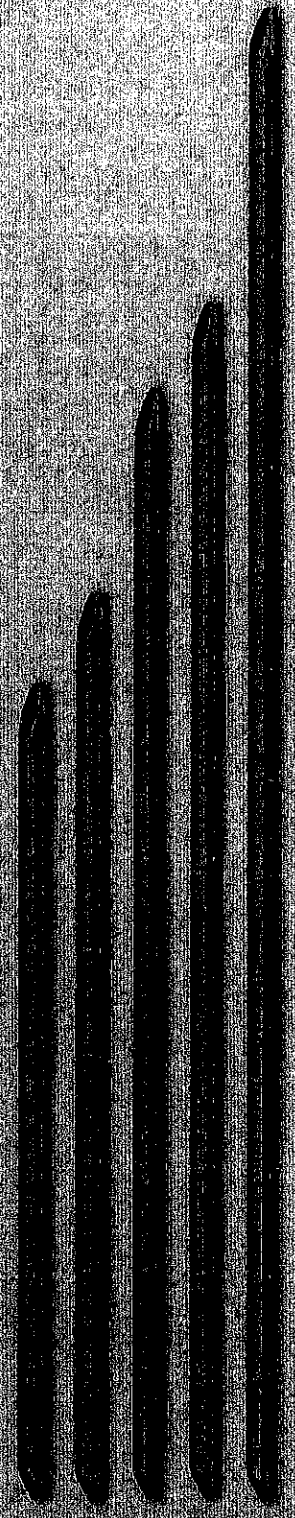
THE DESIGN LEAVES NO STONE UNTURNED

The AGV is designed basically as a hollow tube that operators can fit out as they see best fitting their business model. With such flexibility, operators can choose to install different areas for leisure, work, meetings, reading and rest. In each of these areas, lighting can be customized to enhance the ambience desired. Textures, paint colours and new lightweight textiles co-developed by Alstom and our partners are also part of the palette available to operators to lend character to different travel areas. Thanks to the AGV's "tube" design, operators can easily re-configure interiors and seat pitches during the train's lifetime.

THE EXPLORER POWERED BY YOUR STAVENBERG

AGV CONFIGURATIONS

- AGV 7 (137 m)
- AGV 8 (149 m)
- AGV 10 (185 m)
- AGV 11 (207 m)
- AGV 14 (252 m)

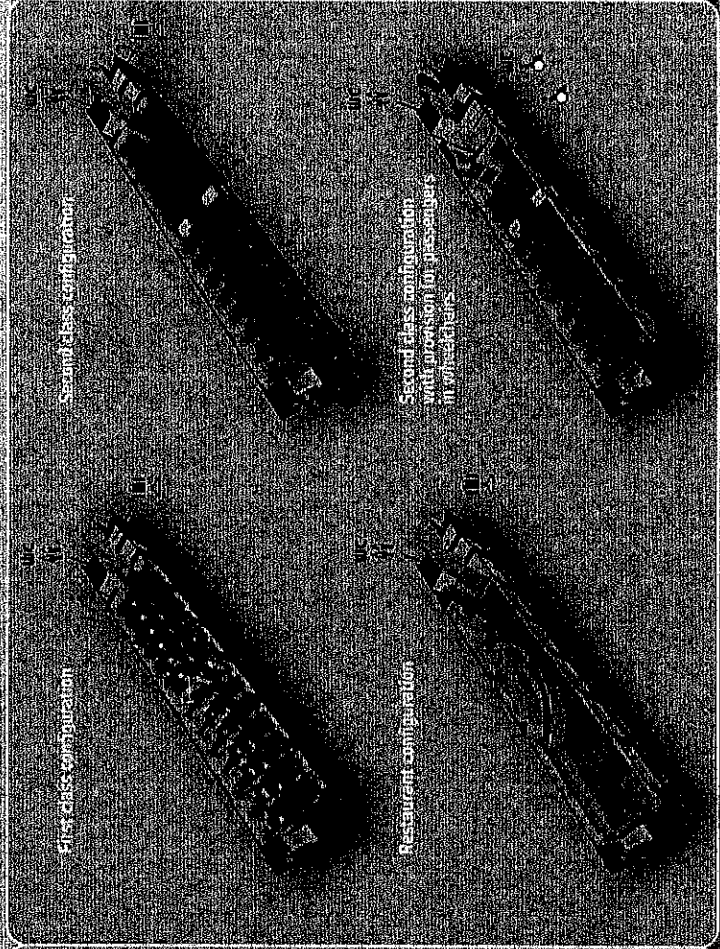
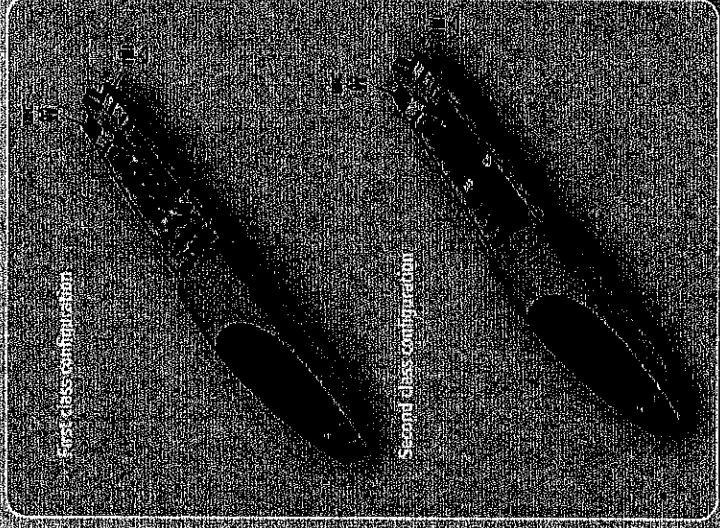
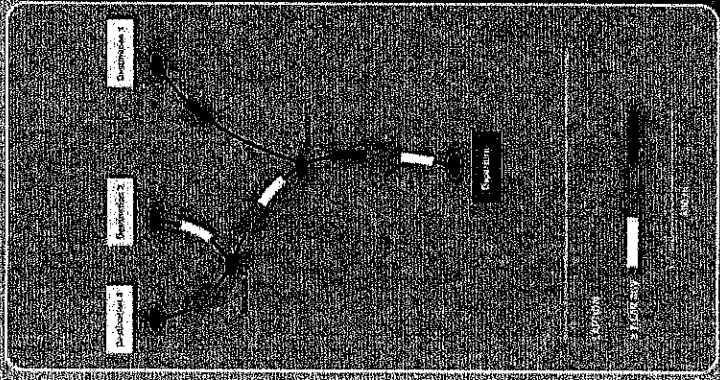


FLEXIBILITY FOR MULTIPLE DESTINATIONS

DRIVER'S CAB

GAUGING CAB

FLEXIBILITY OF DESTINATION



DESIGNED FOR SAFETY & SECURITY

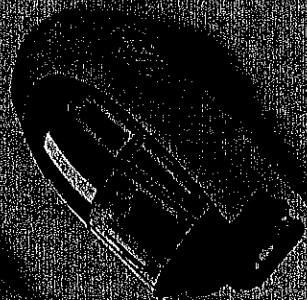
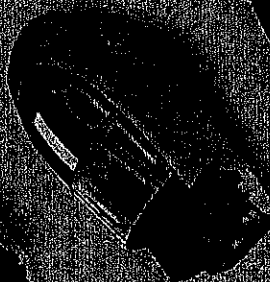
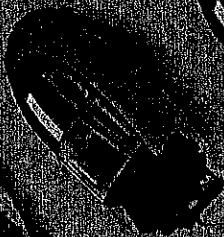
ENERGY ABSORPTION DEVICE

Initial Crush

Step 01 / Absorption
Complete Absorption

Step 02 / Upper
Absorption

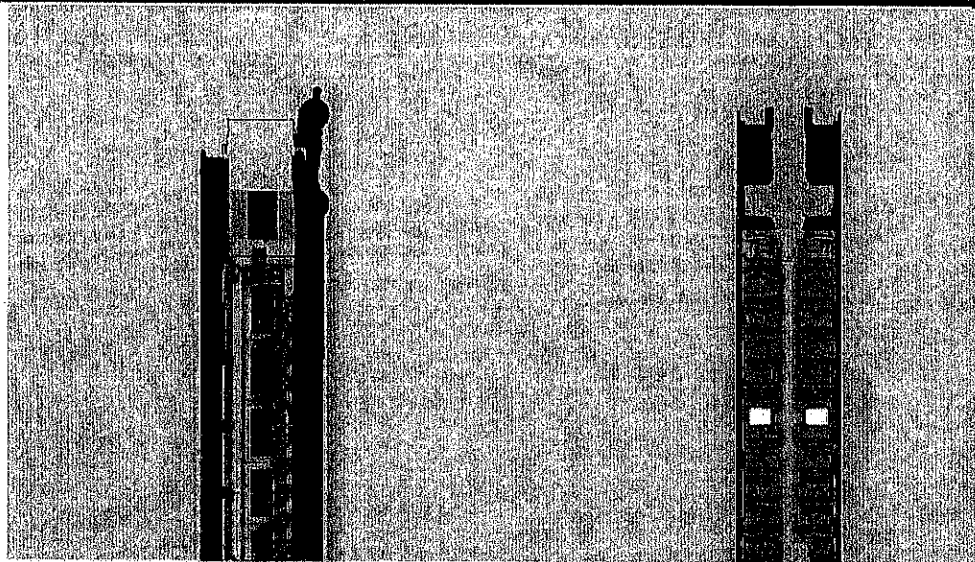
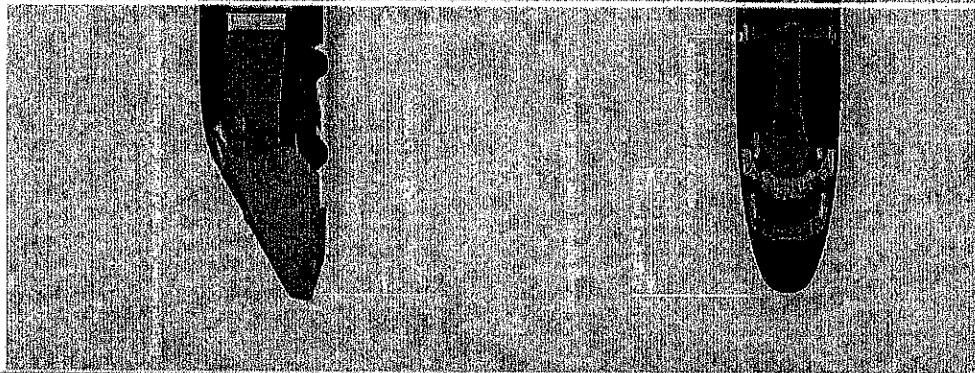
Step 03 / No residual
crush



DRIVER AND PASSENGERS SAFE & SECURE

FOR THE DRIVER

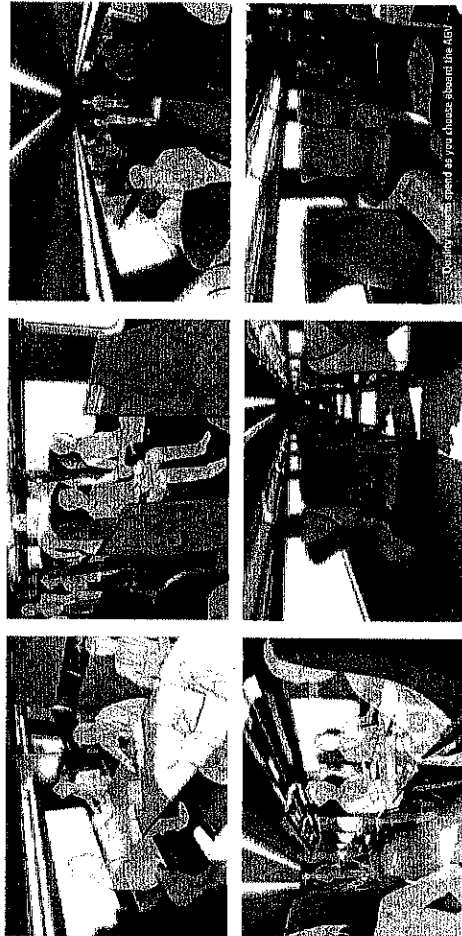
FOR PASSENGERS



IMPROVED ON BOARD COMFORT



The driver's desk has been designed ergonomically for comfort, optimum performance and safety



Only 100mm steps as you board the AGV

e-capabilities:

Infotainment and security

The AGV is equipped with a standard Ethernet backbone dimensioned to deliver the multimedia and connectivity services your passengers expect in the 21st century. A wide range of optional equipment for passenger information and entertainment services is offered including Wi-Fi and onboard Internet. Designed for modularity, our IT technology can be tailored to meet your specific needs, either as an integrated system or as separate modules. Our IP-based system solutions allow us to easily integrate equipment of any make. All meet new European and US standards for visual and audio communications for passengers with disabilities.

DRIVER CONSIDERATIONS

The cab is TSI-compliant in terms of crash protection and interoperability. It has also undergone rigorous reviews by ergonomics and aesthetic design teams to ensure pleasant working conditions, including intensive acoustic studies to minimise noise levels inside the cab, which are limited to 78db at 330 km/h. The cab is fitted with a redundant HVAC system and an individual access door, and all electrical cabinets are directly accessible from inside the dedicated driver zone.

The driver's desk

The AGV driver position and controls are located centrally. The cab has a generously dimensioned conical front bay, affording the driver an excellent view and natural light. The desk can be manned by a single driver and a seat is provided for a co-driver. An ergonomic study was done using digital modelling to minimise driver fatigue and to make user-friendly screens for the modern TCMS (Train Control and Monitoring System).

The AGV is designed to offer all travellers new levels of comfort: spacious interior compartments and wide gangways, large window surfaces, a smooth ride, lower levels of interior noise and multimedia amenities.

PUTTING PASSENGERS FIRST

Attractive and comfortable trains are critical to the success of your transport business. To provide optimum comfort, AGV cars are wider than any other very high speed car on the market (in the UIC loading gauge). This will give you the possibility to propose wider seats or wider corridors. The AGV has the largest windows on the VHS market, ensuring luminosity from natural light along with scenic views to enhance the passenger's feeling of spaciousness.

The AGV's floor height allows passengers to enter trains from the platform by two 200mm steps, which is fully compliant with TSI for people with reduced mobility. Special care was taken to keep noise low. Passengers can expect a more comfortable ride with less vibration and less noise, thanks to the trainset's articulated architecture. The heating, ventilation and air-conditioning (HVAC) system is designed to offer the best climatic comfort to passengers, whatever the countries the AGV operates in.

TUBE DESIGN: NEW LEVELS OF COMFORT & OPTIONS

LARGE WINDOWS
+15% OF SURFACE

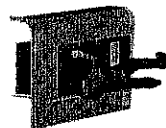
WIDE GANGWAYS:
1,000 m

SPACIOUS INTERIOR:
2,750 m

VESTIBULE AREA

OPTIONS IN THE VESTIBULE AREA

CATERING AREA CONFIGURATION: 3 OPTIONS



AUTOMATIC VENDING MACHINE



COFFEE MACHINE



SERVICE AT PLACE INCLUDING HOT MEALS

TRAIN MASTER OFFICE

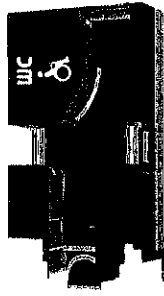


BAGGAGE STORAGE



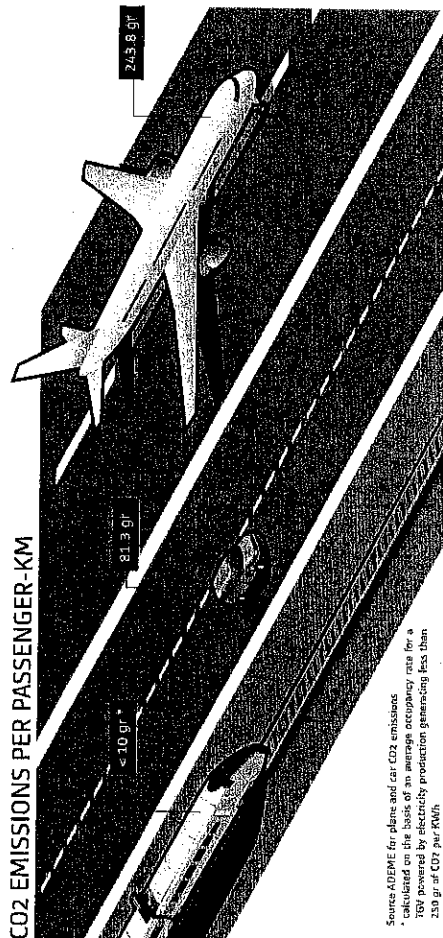
LUGGAGE STRIP

CONFIGURATION WITH PROVISION FOR PASSENGERS IN WHEELCHAIRS



DESIGNED FOR ENVIRONMENTAL AND ECONOMIC EFFICIENCY

CO2 EMISSIONS PER PASSENGER-KM



The AGV is designed to meet the environmental and economic challenges of today and tomorrow.

IMPROVED LIFECYCLE COSTS

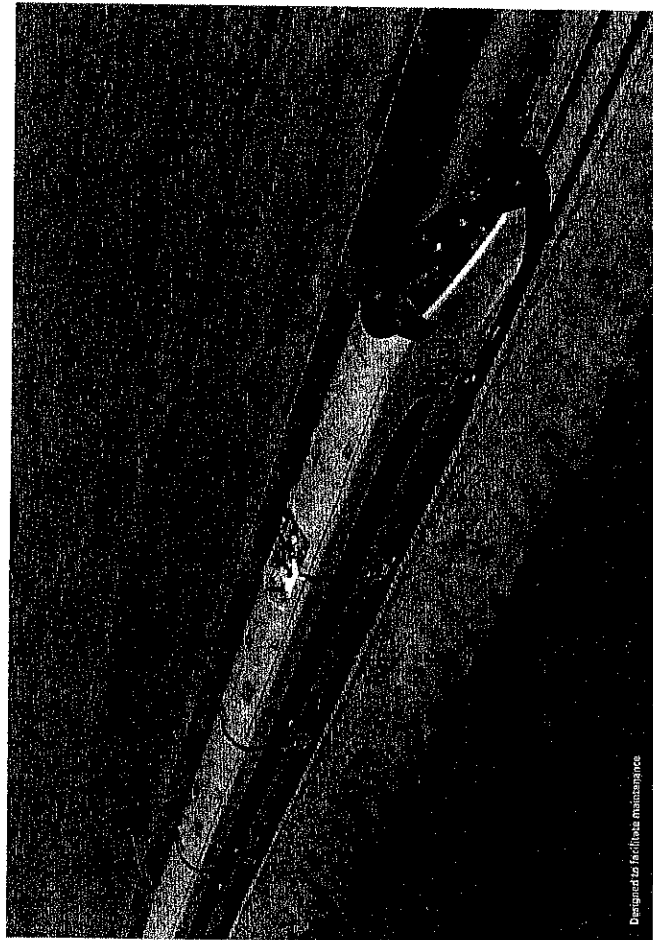
The AGV delivers superior lifecycle cost performance. Operators can count on:

- Energy consumption savings of 15% thanks to the train's articulated architecture (less bogies, reduced aerodynamic drag), the permanent magnet motors' improved efficiency and body shape optimized for aerodynamics and thanks to the train's total weight, at 410 tonnes (for a 200 m long AGV), 70 tonnes lighter than competitors.
- Further energy savings come from the AGV's maximized use of regenerative electrodynamic braking, in which energy is returned in priority to the power supply network during braking phases.
- Maintenance savings of 15% thanks in particular to less bogies and to the closed, self-ventilated permanent magnet motors.

ENVIRONMENTAL RESPECT

Trains are a naturally environmentally-friendly mode of transport. The AGV goes even further. The AGV's 15% lower energy consumption results in savings of 650 000 kWh for a train travelling 500 000 km a year. Although the AGV generates no CO2 itself, the type of power station that produces the electricity will be a source of CO2 within a full "well-to-wheel" CO2 calculation. Today operators can choose to purchase "carbon-free" electricity and thus eliminate any contribution to their "Carbon Footprint" from the energy used by their electric trains.

The AGV is designed for end-of-life recyclability with a target to use over 90% of recyclable materials. Finally, the AGV makes less external noise as it runs, lessening its environmental impact, thanks to its aerodynamic design and reduced number of bogies.



Designed to facilitate maintenance

The AGV offers low energy consumption, and so lower CO2, reduced maintenance expense, reduced generation of external noise and end-of-life recyclability.

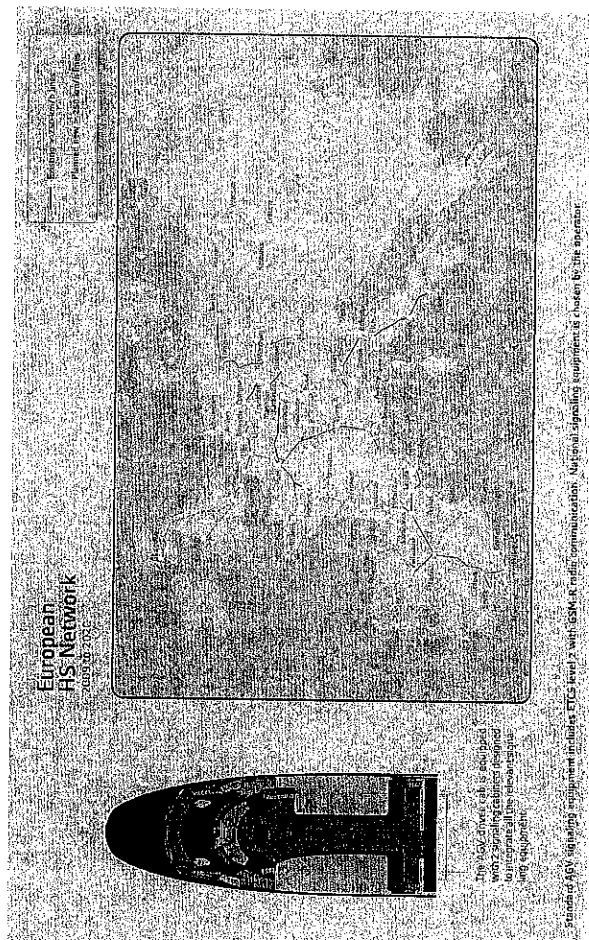
DESIGNED FOR EASY MAINTENANCE

The AGV's vital sub-systems have been designed to minimise the time, and hence cost, of periodic maintenance operations. This redesigning was based on extensive feedback from our maintenance teams and those of our TGV customers, and by the integration of Alstom train maintenance experts within the AGV design team.

The AGV is equipped with our latest TrainTracer solution. By capturing data on the status, location and events of the train and transmitting it in real-time to maintenance managers, preventive and corrective maintenance operations are enhanced and our customers' fleet availability is boosted. The AGV's "e-capability" includes a standard provision for remote train diagnostics to improve the efficiency of train maintenance operations.

A further technological advance is our TCMS (Train Control Monitoring System), which conforms to European standards. A highly modular combination of hardware and software, this system acts as the AGV's brain and nervous system. It is organized into three independent subdivisions that can be modified, tested or homologated separately.

INTEROPERABILITY FROM THE OUTSET



SETTING HIGHER SIGNALING

The AGV is the first very high speed train to be designed from the outset for international interoperability, fully compliant with the EU's interoperability Technical Standards:

- The signalling cabinet can house interoperable ETCS (European Train Control System) and national train speed control signaling equipment for operations on any international high speed corridor in Europe.
- The AGV can operate with any of its four distinct power supply voltages (25kV - 15kV - 1.5kV - 3kV) or a combination of those.
- The driver's desk layout and equipment are compliant with international standards for interoperability and designed in keeping with EU-D (European driver) recommendations.

ERTMS, UNITING EUROPEAN RAIL

The EU's new common European Railway Traffic Management System (ERTMS) will allow all rail traffic to flow throughout Europe, freed of yesterday's different signaling technologies. Rail traffic will be faster, safer and more cost-effective.

As manufacturer and systems integrator, Alstom has been a major contributor to ERTMS development from its inception. Today our train-borne and track-side ERTMS solutions are at work in several European countries, making seamless, cross-border rail operations possible at speeds of 300 km/h and above in total safety. Alstom is the leader in ERTMS operational deployment, with over 1,200 trains equipped and close to 20 million kilometers covered in commercial service.

INTEROPERABLE REFERENCES IN VERY HIGH SPEED

Alstom has played a pioneering role in the development of very high speed rail for international routes, supplying many of Europe's interoperable fleets. We have the skills and knowledge of national network requirements to assure satisfaction.

EUROSTAR

Eurostar, the very high speed rail service linking London, Paris and Brussels, celebrated its 10 millionth passenger at Christmas 2008. An Alstom-led consortium had designed the Eurostar train back in 1989, meeting safety and comfort requirements despite wide disparities in gauge, electrical supply, signaling system and platform heights. Alstom supplied 38 trainsets, each offering a capacity of nearly 800 passengers. We also provided a centralized traffic control system for shuttles and international train operations in the Channel Tunnel, allowing automatic route control for unmetabled traffic.

THALYS

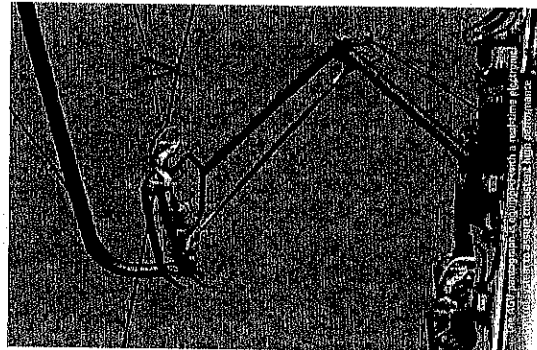
French, Belgian, Dutch and German national railways created Thalys International, a high-speed passenger rail service operating on their respective networks in the 1990s. Alstom, renowned in high speed rail and interoperability, was chosen to supply the fleets for this multiple-border, multi-system route. Each of the 17 trains in the Thalys PSKA fleet (Paris - Brussels - Cologne - Amsterdam), based on our classic single-deck TGV, is equipped for four national signaling systems and associated line voltages. Alstom also supplied 10 additional Thalys PBA trains equipped to run between the three capitals. Both fleets, remarkable for their passenger and driver comfort, operate at up to 300 km/h on high speed lines and 220 km/h on standard track.

TGV EAST

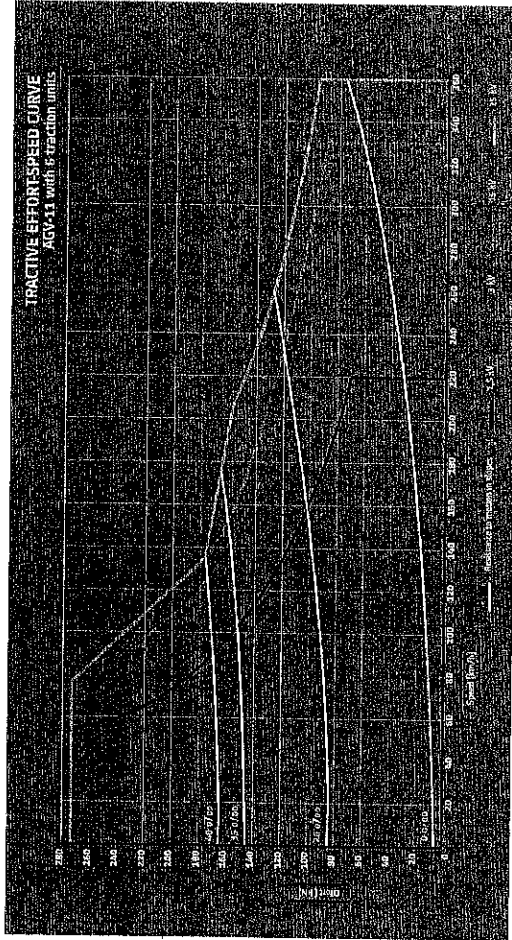
For this new very high speed line linking France and Germany, Alstom is supplying some 38 power cars. The first of these were put into service in 2007. The aerodynamic design of the East European TGV power cars is derived from our THALYS and TGV Duplex trains. The new link will ultimately connect Paris to Strasbourg at speeds up to 320 km/h (300 km/h in Germany). The power car is not only faster but also 7% more powerful than the previous TGV Duplex generation thanks to a new IGBT traction system and asynchronous motors.

The pantograph

Pantographs can have bases of various widths (1,450, 1,500 or 1,950 mm) and of different materials (pure carbon or a combination of carbon and copper) adapted to the AGV's different routes. The AGV pantograph is equipped with a real-time electronic control system, assuring the lower constant pressure on the catenary. This was used in the recent world speed record at 574.8 km/h.



BOOSTING PERFORMANCE AND RELIABILITY



THE TRACTION SYSTEM

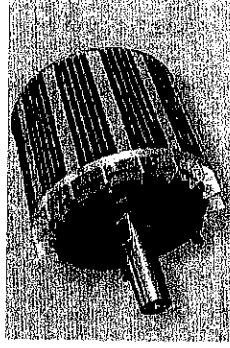
The AGV is powered by a new traction system composed of Onix 6.5kV IGBT power modules, a 3600 V power bus and Alstom's innovative Permanent Magnet Motors (PMMs). These motors reduce weight and enhance the AGV's energy efficiency. The new motor is supplied by electrical converters using a high voltage switch, such as IGBT. The PMMs are lighter and more compact than previous asynchronous motors - 1/3 less weight and volume. They have an improved power-to-weight ratio of over 1kW/kg, simplified ventilation circuits and most importantly, lower energy consumption. This is a significant contribution to the AGV's 15% lower energy consumption advantage over competitor VHSs.

The AGV's specific power can also be scaled to purpose: its huge initial power potential (22.6 kW/ton) can be reduced by limiting the number of traction units for operators that do not intend to run at 360km/h on a daily basis.

The new Onix traction system architecture also improves reliability. Each AGV motor axle is powered by an individual Onix power inverter. An 11-car AGV may be equipped with 6 independent traction units. While enabling the train to generate massive, unparalleled power of 22.6 kW/ton (23% higher than its main competitor), this also means that a failure of one power module will result in the loss of only 1/6 of the effective train traction power, compared to 1/4 for most other high speed trains. This will give the operator superior punctuality capability, by maintaining a high level of performance in the exceptional event of a power module failure.

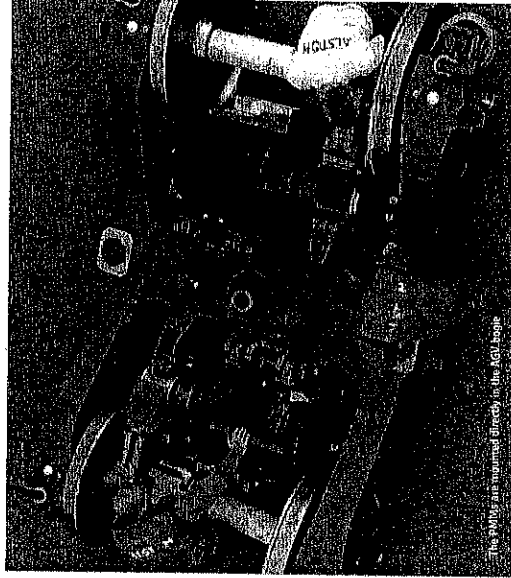
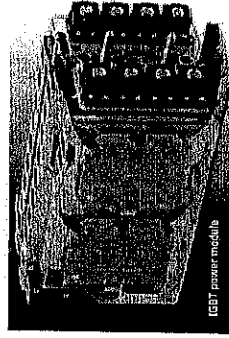
Permanent Magnet Motors...

PEPOT technology uses magnets in the rotor of a synchronous motor combining the benefits of both synchronous and asynchronous motor technologies. AGV PMMs are sealed and self-ventilated, reducing noise emissions, isolating interior parts from sand or dust, eliminating the need for external cooling fans, and as a consequence, reducing maintenance. PMMs are permanently fixed, allowing a full availability of electro-dynamic braking for safety.



...& IGBT traction converters

The AGV uses water-cooled traction units with new modules that are much more compact and modular than those used on previous generations of very high speed trains. AGV semi-conductors are of the latest generation, proven IGBT rated at 6.5 kV, allowing the main power bus to be set at 3.6 kV, and thus simplifying the multi-voltage power scheme for full interoperability. These volume and weight reductions considerably improve performance and facilitate maintenance.

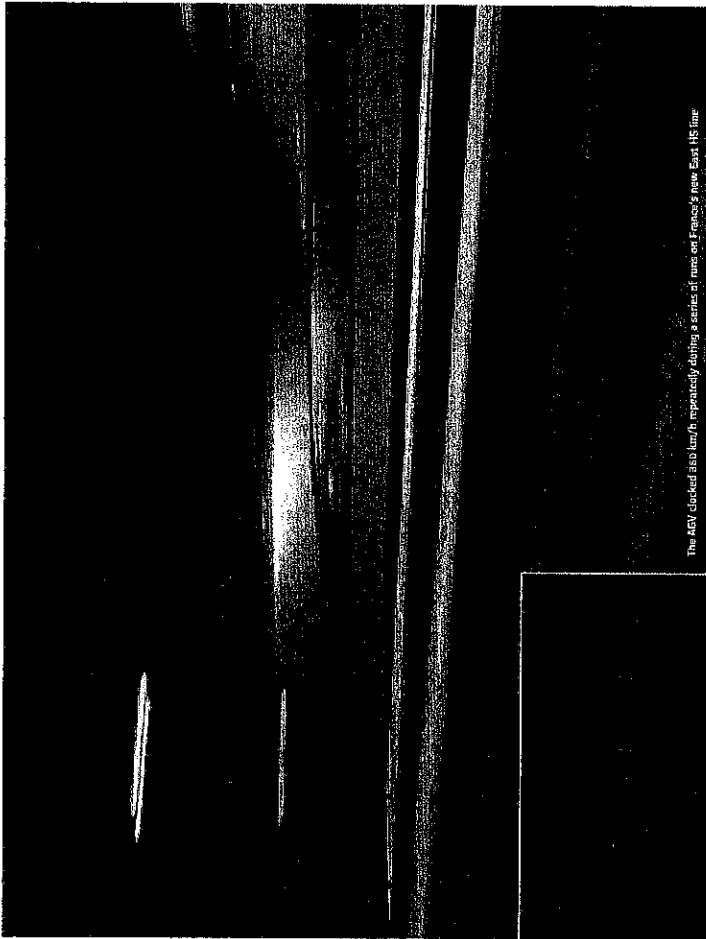


BOGIES

The AGV's new bogie design was based on service-proven TGV bogie technology. The difference lies in the PMMs, mounted directly in the AGV bogie, which allow a simplified drive transmission to the wheels compared to the TGV. With the number of drive bogies reduced and optimized, significant gains were achieved in reliability and train weight. The AGV motor bogie has proved its intrinsic stability and safety at high speed, covering over 700 km in test runs at more than 500km/h during the world high speed record.

BRAKING

Electrodynamic braking with energy recovery offers a host of new possibilities for reducing energy consumption and maintenance costs. The AGV produces its own electricity based on a braking system that features an energy-recovery and rheostatic brake. During braking stages, the electric power, which can reach up to 8 MW, is fed back into the grid. The AGV is designed to use this electrodynamic braking as much as possible in order to reduce friction-generated wear of mechanical parts. Moreover, the AGV's mechanical and rheostatic brake system will ensure safe braking in all conditions, even in the event of a broken catenary, caused, for example, by an earthquake.



The AGV docked also km/h repeatedly during a series of runs on France's new East HS line

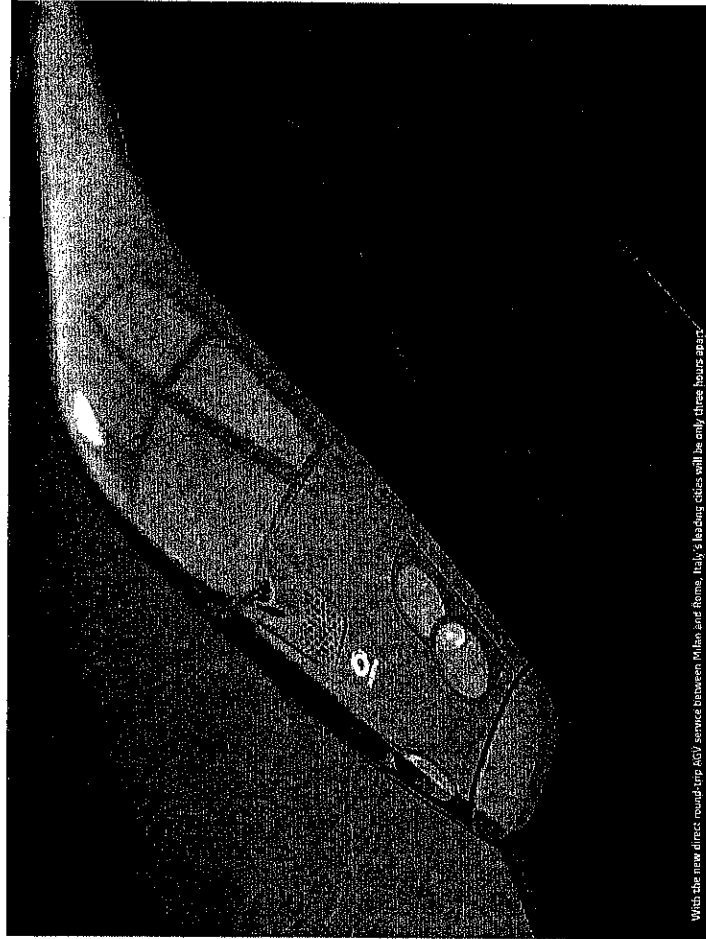
AGV PROVEN AT VERY HIGH SPEED

In November 2008, the AGV sped along at 360 km/h in a series of test runs on France's TGV East high speed line, proving its ability to provide full comfort, safety and reliability at top speeds.

These very high speed test runs were the culmination of a thorough campaign of dynamic tests at 200 km/h, held between April and September 2008 on test loop facilities in Vélizy (Czech Republic). The fundamentals of the AGV—its bogies, pantographs and complete traction chain, including the permanent magnet traction motors—had already been proven at low speed in our La Rochelle site between 2007 and 2008. The new AGV bogie design demonstrated excellent stability in extreme performance conditions.

AGV DEVELOPMENTAL MILESTONES

- **Since the 1970s:** More than 30-year experience in HST and VHSST
- **June 2004:** AGV prototype programme launched
- **Nov. 2005:** Scale model of design concept presented at EuroRailSpeed exhibition, Milan
- **Feb. 2007:** First AGV car built
- **April 3, 2007:** TGV Duplex with AGV components set new world speed record in rail at 574.8 km/h
- **Dec. 2007:** First 7-car AGV prototype rolled out for testing
- **Jan. 27, 2008:** Alstom and NTV announced first AGV contract
- **Feb. 5, 2008:** AGV officially unveiled to the press
- **April/Sep. 2008:** AGV tested at medium speed (160-200 km) in Vélizy, Czech Republic
- **End 2008:** AGV tested at very high speed (over 360 km/h) in France
- **2009:** AGV tested under different voltages in Vélizy (Czech Republic).



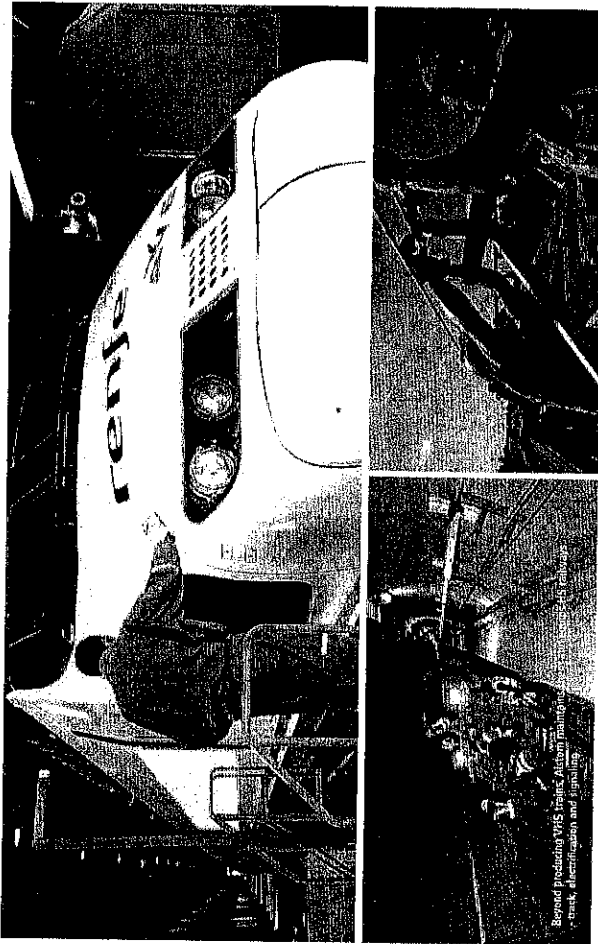
With the new direct round-trip AGV service between Milan and Rome, Italy's leading cities will be only three hours apart

THE FIRST AGV FLEET, ITALY'S NUOVO TRASPORTO VIAGGIATORI (NTV)

NTV, the first private operator on Italian high speed lines, chose the AGV for its new fleet of high speed passenger trains. Alstom is supplying NTV with 25 AGV trains, assembled at our La Rochelle (France) and Savignano (Italy) facilities. We will also provide their full maintenance for a 30-year period. A new, state-of-the-art depot is being built in Italy for this purpose.

There is also an option for an additional 10 trains.

The 11-car trains, which will run at 300 km/h, will give the operator high capacity and differentiated seating among the approximately 460 places. The AGV was designed in line with the latest European interoperability standards and complies with European and Italian environment and safety regulations. Commercial service will begin in 2011. NTV will run the new high speed fleet between the main cities in Italy, offering a total of 54 trips daily: Turin, Milan, Venice, Bologna, Florence, Rome, Bari and Reggio de Calabria.



AGV WITHIN THE FULL ALSTOM OFFER

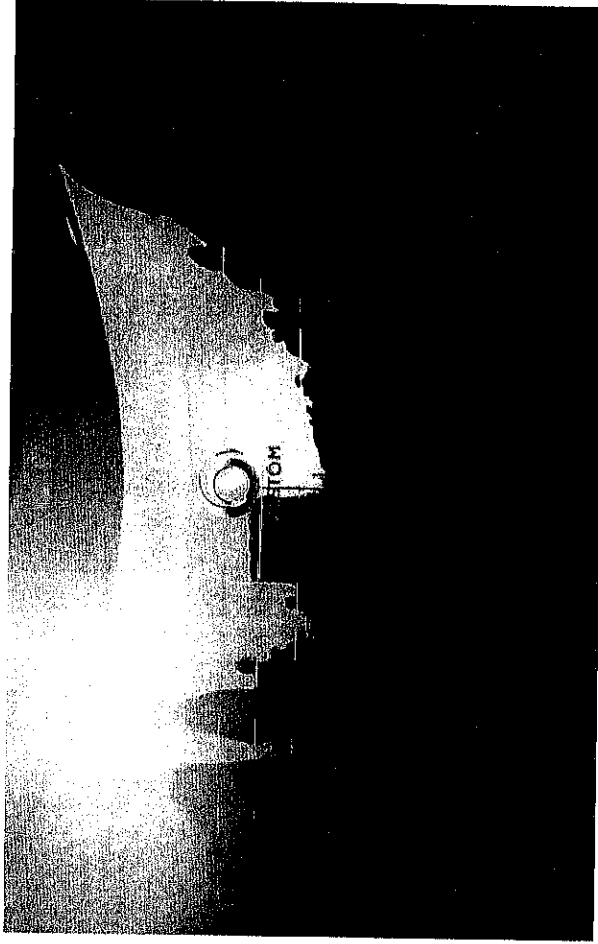
Our train life services will make sure your AGV fleet reaches its full potential, in guaranteeing its reliability, availability and lifecycle costs. From parts supply to full maintenance and modernisation, our experts are there for you in specialised centres worldwide: 33 maintenance sites, 12 parts & logistics centres and 5 modernization sites.

Alstom has been guaranteeing the maintenance of Spain's Renfe fleet of 18 AVE high speed trains since 1992. It has a 100% rate of availability. After 15 years of successful service at 300 km/h, Alstom, the fleet's manufacturer, also provided the full modernization of the 18 AVE fleet for Renfe: train interiors, seats, passenger information, and mobility impaired access as well as exterior painting.

Since 2004, Alstom has also assured the full maintenance of Virgin Trains' fleet of 52 Alstom-built Pendolino trains as well as trains supplied by others. The Pendolino trains are equipped with our Trainracer system, allowing technical teams to anticipate repairs or parts wear and reduce train down time.

Full systems projects

You can also choose AGV trains within a full high speed system project. We ensure complete system integration in turn-key contracts, sharing the risk of your investment. Alstom Transport earned such a full turnkey project with Renfe in Spain's South Korea with the very high speed train (KTX).



Through its know-how and the excellence of its products, Alstom is shaping the future of energy and transport infrastructure and contributing to improving the living and working conditions of people throughout the world. Today, more than 65,000 people in 70 countries are making an active contribution to the growth and sustainable development of its business.

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04/02/12

SUBJECT: CHSRA omission of Design Options (DO4 and DO6) from Merced-Fresno HST EIR/EIS for the San Joaquin River Crossing – Resulting non-mitigation of agricultural land and freight rail crossing safety impacts in South Madera County:

Related email communications (attachments omitted) with CHSRA staff and consultants (reverse chronological order):

Email String #1:

-----Original Message-----

From: Martin Weil [REDACTED]
To: kim.christensen <kim.christensen@aecom.com>
Sent: Mon, Mar 26, 2012 2:47 pm
Subject: Fwd: High Speed Rail – SJ River Crossing

Kim:

Per our recent telephone conversation:

Forwarded FYI: Email communications, with attachments, sent to my planning contacts in Madera City and County.

Steve Weil

-----Original Message-----

From: Martin Weil [REDACTED]
To: norman.allinder <norman.allinder@maderacounty.com>
Sent: Thu, Mar 22, 2012 7:54 pm
Subject: Fwd: High Speed Rail Avenue 12 impacts

Norm:

Per our telephone conversation, this email and attachments are forwarded for your review.

Steve Weil

Tel. [REDACTED]

Email: [REDACTED]

-----Original Message-----

From: Martin Weil [REDACTED]
To: dmerchen <dmerchen@cityofmadera.com>; sgreer <sgreer@cityofmadera.com>

Sent: Thu, Mar 22, 2012 2:32 pm
Subject: High Speed Rail Avenue 12 impacts

Dave and Steve:

RE: High Speed Rail impacts at Avenue 12 -- BNSF crossing.

First Attachment:

- Proposed high speed rail grade separation structure along Avenue 12
- Proposed high speed rail alignment at Avenue 12

Second Attachment:

- Exhibits from my comments on the EIR/EIS relating to an alignment alternative at the San Joaquin River crossing point.

The alternative I proposed (and which the Authority had depicted as "DO4" and/or "DO6" -- earlier "Design Options" not referenced in the EIR/EIS) would provide a dual use (high speed rail and freight rail) grade separation structure at Avenue 12 -- instead of their proposed dysfunctional design which makes a future freight rail grade separation structure very problematic or unnecessarily costly -- i.e. future freight rail crossing immediately adjacent to the high speed rail crossing creates a "roller coaster" situation for Avenue 12 traffic and/or a costly demolition and "viaduct" extension of the high speed rail grade separation structure. This can be avoided.

Steve Weil

Email #2:

-----Original Message-----

From: Martin Weil [REDACTED]
To: mmcccloughlin <mmcccloughlin@icn.com>
Sent: Thu, Mar 8, 2012 9:36 am
Subject: High Speed Rail SJ River Crossing -- Steve Weil comments

Mark:

Per our telephone conversation this morning, attached are excerpts from my comments on the Merced-Fresno EIR/EIS relating to the "DO4 and DO6" issue at the San Joaquin River and north into Madera County.

You can contact me at this email address or telephone: [REDACTED]

Steve Weil

Email String #3:

-----Original Message-----

From: Shay Humphrey <s.humphrey@circlepoint.com>

To: mweil0777 [REDACTED]
Sent: Fri, Mar 2, 2012 11:08 am
Subject: RE: HST Inquiry about Design Options 4 and 6

Hi Steve,

Below is the email I sent last week.

Shay
From: Shay Humphrey
Sent: Tuesday, February 21, 2012 12:15 PM
To: [REDACTED]
Subject: HST Inquiry about Design Options 4 and 6

Hi Steve,

I was able to track down some information on Design Options 4 and 6 but it may be the same information you've already found. The Preliminary Alternatives Analysis Report concluded that Design Options 4 and 6 would have "Undesirable community impacts north of Fresno with no other operational advantages." See Table 16 on page 21, of the report at this link: <http://www.cahighspeedrail.ca.gov/assets/0/152/256/262/2f36d4a4-6e7a-4824-bd8b-9cdc6431d16a.pdf>

Based on the conclusions in the report noted above, Design Options 4 and 6 were not carried forward for further study in the EIR/S and thus were not analyzed in the Draft EIR/S.

The responses to your comments on the Draft EIR/S will be available in the Final EIR/S which we anticipate will be made available to the public this spring. You will receive an email letting you know when that document has been made available and where you can find copies.

Please feel free to contact me if you have any questions.

Shay

Shay Humphrey
Project Manager

455 Capitol Mall, Suite 802
Sacramento, CA 95814-4427
916.658.0180 x125
661-304-5839 Cell
s.humphrey@circlepoint.com
www.circlepoint.com

Email String #4:

-----Original Message-----

From: Martin Weil

To: jabercrombie <jabercrombie@hsr.ca.gov>; dleavitt <dleavitt@hsr.ca.gov>; dtooley <dtooley@cityofmadera.com>; dmerchen <dmerchen@cityofmadera.com>; drandall <drandall@cityofmadera.com>; bkahn <bkahn@maderacountyedc.com>

Sent: Mon, May 9, 2011 2:01 pm

Subject: HST Merced-Fresno SJ River Crossing

Jeff and Dan:

The attached pdf depicts a proposed "refinement" to the A2-A1 alignment connection in the vicinity of the San Joaquin River that would appear to be superior operationally, budgetarily and environmentally to the current HST SJ River crossing at the A-2 Alignment, which has the HST tracks heading somewhat further west along A-2 before they cross east over to the A-1 Alignment. Also, by somewhat distancing the HST SJ River crossing from the existing freeway and freight railroad bridge structures, the opportunity for a cost-effective but visually significant arch or cable structure ("signature" bridge design) for HST with a reduced physical footprint in the SJ River channel bottom becomes compelling.

On a personal note, please recall, as I have indicated before, that my intense and persistent interest in the issue of the location of the SJ River crossing is driven by the fact that the A-2 Alignment through the City of Madera will directly and adversely impact the commercial development potential of land I own in the north part of that city through direct right-of-way and other impacts. Thus, I've been attempting to make the A-1 Alignment as acceptable as possible to the agricultural community in south Madera County. In addition, as a more than 60-year resident of Fresno and a property owner in both Fresno and Madera, I'm advocating a more considered and creative approach to the location and design of the SJ River crossing, which should be a signature feature of HST infrastructure in the Valley.

Thank you for consideration of this submittal. Questions or comments are welcome. Aside from dialogue such as this email, I understand that my options at this point are to communicate this proposal to the Authority Board (through a letter and exhibit) and/or to fully participate in the public comment process (including in writing) once the Merced-Fresno Draft EIR/EIS is released for public comment.

Steve Weil